

CAN WAR BE OUTLAWED?

# CONGRESSIONAL DIGEST

WASHINGTON D.C.



MARCH 1928

## The Movement to Outlaw War

Most Recent Plan for Permanent Peace

The Pending Borah Resolution

The Briand-Kellogg Correspondence

The Hughes Plan for Western Hemisphere

---

Discussion of Various Plans—Pro and Con

---

Regular Departments

---

FIVE DOLLARS A YEAR



FIFTY CENTS A COPY

# The Congressional Digest

Not an Official Organ, Not Controlled by Nor Under the Influence of Any Party, Interest, Class or Sect

**ALICE GRAM ROBINSON, NORBORNE T. N. ROBINSON, Editors and Publishers**  
Editorial Offices, Munsey Building, Washington, D. C.

Published Every Month, except for July and August. Current Subscription Rates: \$5.00 a Year, Postpaid in U. S.; in Canada \$5.25; Foreign Rates \$5.50; Current Numbers 50c a copy; Back Numbers 75c a copy; Volumes III, IV and V, Bound, \$7.50 each; Unbound, \$6.00. Address all Orders and Correspondence to:

The Congressional Digest, Munsey Building, Washington, D. C.

Copyright, 1923, by Alice Gram Robinson, Washington, D. C.

Entered as Second-Class Matter September 26th, 1921, at the Post Office at Washington, D. C., Under the Act of March 3, 1879. Additional entry as Second-Class Matter at the Post Office at Baltimore, Maryland, under the Act of March 3, 1879; authorized August 22, 1927.

## Contents for This Month

### **Legislative Department:**

#### **The Pro and Con Feature: The Movement to Outlaw War**

Provisions of the United States Constitution Involved in Considering Outlawing of War Question..	75
The Effort to Outlaw War—By Charles Clayton Morrison.....	76
Levinson-Borah Proposal to Outlaw War.....	77
Borah Resolution to Outlaw War.....	77
The United States Department of State and Maintenance of Peace.....	78
Maintenance of Peace in Western Hemisphere—By Charles Evans Hughes.....	79
The United States-Canadian International Joint Commission.....	80
The Briand Proposal to Outlaw War—France and United States Exchange Views.....	81
An Analysis of the Briand-Kellogg Proposals—By Arthur Deerin Call.....	84
Is Briand Proposal Practical?.....	85
Hon. Arthur Capper (Pro), Prof. James Shotwell (Pro) vs. Frank H. Simonds (Con).....	85
Can War Be Outlawed?.....	87
Hon. William E. Borah (Pro) vs. Robert Lansing (Con).....	87
S. O. Levinson (Pro) vs. Walter Lippman (Con).....	89
New York World (Pro) vs. National Council for Prevention of War (Con).....	93
John Dewey (Pro).....	94

#### **This Month:**

Action Taken by Congress.....	95
Paragraph News of National Issues.....	99

### **Executive Department:**

The White House Calendar.....	103
Uncle Sam's Bookshelf.....	104

Back numbers of the Congressional Digest are indexed in the Readers' Guide.

# *The* Congressional Digest

March - 1928

Vol. 7 - No. 3

## ~~~~~ ••• LEGISLATIVE DEPARTMENT •••

THE PRO AND CON FEATURE—ACTION BY HOUSE AND SENATE—LEGISLATIVE NEWS ITEMS  
~~~~~

THE PRO AND CON FEATURE:

### *The Movement to Outlaw War*

Provisions of U. S. Constitution Involved  
Efforts Since World War to Establish Peace  
Levinson-Borah Proposal to Outlaw War

State Department and Maintenance of Peace  
U. S. and Peace in Western Hemisphere  
Recent French Proposal and U. S. Reply

Can War be Outlawed?—Discussed Pro and Con

### Provisions of U. S. Constitution Involved In Considering Outlawing of War Question

#### Article I

*Sec. 8, Par. 10*—(The Congress shall have Power) To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

*Sec. 8, Par. 11*—To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

*Sec. 8, Par. 12*—To raise and support Armies, but no Appropriation of money to that Use shall be for a longer Term than two Years.

#### Article II

*Sec. 2, Par. 2*—He (the President) shall have power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur. . . .

#### Article III

*Sec. 1, Par. 1*—The judicial Power of the United States

shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. . . .

*Sec. 2, Par. 1*—The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all cases affecting Ambassadors, other public Ministers and Consuls;—to all cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a party; . . .

#### Article IV

*Sec. 1, Par. 2*—This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land;

## The Effort to Outlaw War—

### The Most Recent Phase of the Movement for Permanent Peace

#### *A Brief Review of Successive Steps Taken Since the World War To Establish a Permanent Peace Policy for the United States*

From "OUTLAWRY OF WAR", By Charles Clayton Morrison

**I**N America the movement on behalf of world peace has passed through phase after phase, each with its own proposal for American participation in world organization. The public opinion of the country has decisively rejected them all. It is not strange that this is so, in view of the high hopes with which America entered the great war. We were to fight a war to end war, to crush militarism, to establish social justice, and to make the world safe for democracy.

**H**ARDLY less disillusionizing than the post-war discovery of the truth about the war itself has been the post Versailles discovery of the truth about the covenant of the league. The result of this struggle the world knows. The United States declined to enter the league. With its rejection by the Senate it steadily slipped away from popular attention. Since that time it has ceased to be a thing of any vital concern to American political thinking.

**I**T was a disconcerting experience to American internationalism when the league failed to convince the public opinion of this country. But the peace groups turned to the Permanent Court of International Justice, established by the league in 1921, as offering the minimum of attainable relationship with the league system. Every attempt was put forth to make the court seem congenial to American ideals and pride. It was contended that the court had no organic connection with the League of Nations. It was also contended that the court was really an American idea and an American policy. The agitation among what might be called the professional peace advocates was intense. The people in general took only the most remote interest in the debate.

**T**HE result of this contest, also, all the world knows. The resolution of adherence passed the Senate in January, 1926, but with five reservations attached of such a drastic nature as to make it necessary, practically, to join the court afresh each time we desired to take a specific case to it.

**I**T was a hollow victory. No sooner had the resolution of adherence passed the Senate than the electorate was aroused in opposition. This was registered at the polls in the defeat of a number of Senators who had conspicuously supported the resolution of adherence, and in the change of front of other senators. When, therefore, some months later, the league members signatory to the court refused to accept the American reservations without a protective counter-reservation of their own, President Coolidge announced that such counter-reservation was unacceptable and that he would take no further action in the matter. It is generally agreed that Mr. Coolidge had by this time sensed the court's unpopularity in public opinion and was unwilling to carry it as a political liability. Thus the world court has been,

like the League of Nations, definitely dropped as an issue in American politics.

**M**EANWHILE Europe was agitated over the Geneva protocol, which incorporated certain ideas formulated by an American group concerning the "outlawry" of "aggressive war," and included a device for identifying the "aggressor." The protocol looked as if it might be ratified by the nations, when suddenly the MacDonald government was overturned by a conservative government which, after months of the most searching examination of the protocol, bluntly declared that Britain would have nothing to do with it.

**W**ITH the rejection of the protocol, Europe turned away from the general covenant principle to the regional covenant principle. The result was Locarno. The Geneva protocol did not get so far as to become a political issue in the United States, but it intrigued the peace groups of this country, most of whose minds, working imitatively in European molds, saw in its elaborate and complex mechanism the goal of all their aspirations. The characterization by the protocol of "aggressive war" as "an international crime" gave a certain plausibility to the scheme, as the idea of outlawing war had begun to be current in American thought. Had the protocol been ratified by the nations in the league a campaign would, without doubt, have been launched with new vigor to get the United States into the league under the deceptive interpretation of the protocol as a mechanism for outlawing war.

**B**UT Locarno, being a regional arrangement, contained nothing which could be used by American peace exponents as the basis of a new appeal for America's participation. Hence the dominant type of American peace thinking which reflected a mental exposure toward Europe was thrown for the first time upon its own resources. With the league, the court and the protocol removed so decisively beyond the range of acceptability any further advocacy of them was an acknowledged futility. The American peace mind, therefore, seized upon the idea of arbitration—universal and compulsory arbitration—which it is now trying to invest with peculiar American sanctity.

**I**N the light of the events which we have just traced it would seem to be beyond dispute that American public opinion is now stubbornly set against entering any system of politico-military co-operation such as the League of Nations is deemed to be. The peace organizations find any further discussion of league or league court an uncongenial and sterile exercise. These issues have lost their vitality. The whole European pattern of world organization stands revealed to American intelligence as containing no principle or promise looking toward the elimination of war, but on



the contrary, as involving commitments highly dangerous to America and to the peace of the world if America should undertake them. In this exigency the peace organizations are compelled to attempt a complete reorientation in their relation to the war issue.

UPON America's most European-minded peace advocates there now begins to dawn the possibility that world peace and the League of Nations are not identical, that war may be gotten rid of without America's joining the league. After being obsessed for a decade with the idea that world peace required for its establishment and maintenance a politico-military alliance of the nations, this obsession is broken, and even the proponents of America's entrance into the league are now able to project other plans for ridding the world of war which do not presuppose our participation in the European system.

IT is a startling change of front by American peace groups. And it marks a logical and convenient point at which to begin consideration of the proposal to abolish war by outlawing it.

FOR the essence and genius of the proposal to outlaw war consists in this, that it is a direct, frontal attack upon the institution of war by the united will of the nations without involving any nations in any political entanglement or military commitment whatsoever.

AND it is the conviction of those who believe in this proposal that only by segregating the war problem from other problems, and by directly dealing with it in a manner appropriate to the nature of the thing that war is, can real progress and accomplishment be expected to crown the peace movements.—*Extracts, see 1, p. 136.*

## *The Levinson Borah Proposal to Outlaw War*

1918—On March 9, S. O. Levinson, a Chicago attorney, in an article in the "New Republic" magazine, set forth an original proposal for the outlawing of war, the first definite proposal of its kind to make its appearance.

1919-1921—"After the covenant of the league was laid before the Senate and the country, disclosing the fact that the peace settlement had done nothing to change the legal and institutional status of war, Mr. Levinson, up to that time an ardent supporter of President Wilson's peace efforts, turned away from the politico-military scheme and began the development of his own concept in terms which he regarded as not only congenial to the best American traditions, but also as effective against war."<sup>1</sup>

1922—On January 19, Senator Borah presented to the Senate and had printed as a Senate Document (67th Congress, 2nd session, Document No. 15) "A Plan to Outlaw War, by Salmon O. Levinson, of Chicago."

1923—On February 14, Senator Borah introduced S. Res. 441 (67th Congress, 4th Session) providing "that war between nations should be outlawed as an institution or means

for the settlement of international controversies by making it a public crime under the law of nations. \* \* \* that a code of international law of peace be created and adopted, \* \* \* and that a judicial substitute for war should be created (or, if existing in part, adapted and adjusted) in the form of nature of an international court, modeled on our Federal Supreme Court, etc."

"Following the introduction in the United States Senate in 1923 of Senator Borah's resolution looking toward the outlawry of war, the idea began to be discussed, and by 1924 the term "outlawry of war" began to appear in resolutions adopted by church and internationalist organizations. In 1925 and 1926 various peace groups gave it a certain kind of hospitality. It figured in a coalition agreement with leading representatives of pro-league and other groups as a promising solution of the world court controversy."<sup>1</sup>

1927—Senator Borah has reintroduced his resolution in every Congress since the 67th and on December 12, 1927, presented the resolution now pending (S. Res. 45). No hearings on this resolution have been held by the Committee on Foreign Relations.

## *Provisions of Borah Resolution to Outlaw War Now Pending in the United States Senate*

ON December 12, 1927, Mr. Borah, Id., R., submitted the following resolution (S. Res. 45), which was referred to the Committee on Foreign Relations:

*Whereas* war is the greatest existing menace to society and has become so expensive and destructive that it not only causes the stupendous burdens of taxation now afflicting our people but threatens to engulf and destroy civilization; and *whereas* civilization has been marked in its upward trend out of barbarism into its present condition by the development of law and courts to supplant methods of violence and force; and

*Whereas* the genius of civilization has discovered but two

methods of compelling the settlement of human disputes, namely, law and war, and, therefore, in any plan for the compulsory settlement of international controversies, we must choose between war on the one hand and the process of law on the other; and

*Whereas* war between nations has always been and still is a lawful institution, so that any nation may, with or without cause, declare war against any other nation and be strictly within its legal rights; and

*Whereas* revolutionary war or wars of liberation are illegal and criminal, to wit, high treason, *whereas* under existing international law wars between nations to settle disputes are perfectly lawful; and

*Whereas* the overwhelming moral sentiment of civilized

<sup>1</sup> Extracts from "The Outlawry of War" by Morrison.

people everywhere is against the cruel and destructive institution of war; and

*Whereas* all alliances, leagues, or plans which rely upon war as the ultimate power for the enforcement of peace carry the seeds either of their own destruction or of military dominance to the utter subversion of liberty and justice; and

*Whereas* we must recognize the fact that resolutions or treaties outlawing certain methods of killing will not be effective so long as war itself remains lawful; and that in international relations we must have, not rules and regulations of war but organic laws against war; and

*Whereas* in our Constitutional Convention of 1787 it was successfully contended by Madison, Hamilton, and Ellsworth that the use of force when applied to people collectively, that

is, to States or nations, was unsound in principle and would be tantamount to a declaration of war; and

*Whereas* we have in our Federal Supreme Court a practical and effective model for a real international court, as it has specific jurisdiction to hear and decide controversies between our sovereign States; and

*Whereas* our Supreme Court has exercised this jurisdiction without resort to force for one hundred and thirty-seven years, during which time scores of controversies have been judicially and peaceably settled that might otherwise have led to war between the States, and thus furnishes a practical exemplar for the compulsory and pacific settlement of international controversies; and

*Continued on page 106*

## The United States Department of State Its Relation to Maintenance of Peace

By HON. WILLIAM R. CASTLE, JR., Assistant Secretary of State



HE aspiration of the American Government is for that real peace which comes of international understanding. But this permanent peace cannot be achieved by waving a magician's wand, it is the result of the growth of character and of understanding, of the gradual elimination of the causes of international misunderstanding, of willingness to let others live their own lives as they see fit so long as their choice does not interfere with the happiness of the rest of the world, of a consistent and unselfish support of national rights. A nation which is unwilling to defend its own rights does not help on the cause of peace.

EVERY fair-minded person knows that the United States is determined to maintain an honorable peace with all the world. The Department of State exists largely for the purpose of maintaining this honorable peace and our efforts along this line cannot be measured by proposals for arbitration treaties or for pacts to prevent war. It is well known that wars have sometimes begun through trivial, apparently unimportant causes. It is the business of diplomacy so to handle these matters that the United States may be respected for the just exercise of its power. We must, for example, support an American citizen living abroad when he has obeyed the law, but we cannot, because we are powerful, support him in wrong doing. We must be generous, but must not permit generosity to bear the badge of weakness.

IN drawing treaties of commerce we must not demand from others what we are unwilling to give ourselves, but on the other hand, we must not hasten to give to others what they are unwilling to give us. The Department is trying continually to break down unnecessary barriers to commerce, to simplify commercial practice because all this makes misunderstanding less likely. We are always willing to extend to every nation the treatment we extend to any one nation, on condition, of course, that it does the same for us. We ask no special favors of anyone and give no special favors. We demand that others shall not discriminate against us so long as we do not discriminate against them.

THE Department of State believes firmly in the principle of arbitration for the settlement of international disputes of a judicial character which cannot be settled by diplomacy in their initial stages. We prefer to handle such

disputes in such manner that the necessity of arbitration shall not arise. We believe that others have good will as we know that we ourselves have good will. We believe that in most cases of misunderstanding two men of different nationalities can sit down quietly and settle almost any dispute that has arisen between their two countries, and therefore, we think that even in non-justiciable matters recourse should be had to conciliation.

I SAID that we want to make commercial treaties alike with all nations. Equally when we make treaties of arbitration or other treaties drawn with the direct purpose of preserving world peace, we want to make them alike with all. Arbitration treaties with several nations are expiring shortly. The Department plans to renew them all and to make them, if possible, more comprehensive. An arbitration decision is a judicial settlement which must be followed like any court decision and it is, therefore, important to define clearly and specifically the questions which are not subject to arbitration, not to leave that decision to the more or less arbitrary decision of one or the other nation. All the remaining questions are still open to conciliation, must be referred under the Bryan Treaties to conciliation, and I believe that the delay thus necessitated will go a long way to prevent war.

THE work of the Department of State is always to bring about better understanding, to appreciate the point of view of other nations without once losing our own American point of view. It is not dramatic. It means watchfulness and good humor and friendliness. It epitomizes the lives of those of us who are in the work and it is an inspiring work because, whether or not its results are recognized, they are very real. All this is logic, the daily grind, if you will, of diplomatic action. It all makes for peace, enduring peace.

IT is the duty of the Department of State, then, to clear up misunderstandings, big and little; to recognize and support friendly enthusiasm wherever we see it; to criticize only when we must and to praise whenever we can; to support the rights of America everywhere and to see to it that rights are never in conflict with the right. It is an inspiring work and it becomes always more inspiring when we know that we have the American people back of us.—*Extracts see 2, p. 106.*

## Maintenance of Peace in Western Hemisphere

Charles Evans Hughes States U. S. Attitude  
At Recent Pan-American Conference and Suggests  
Joint Commissions to Settle International Disputes

**I**T is my happy privilege to say for the United States of America that we would join most heartily in a declaration that there shall be no war of aggression in America. I am in entire accord with the proposal that we should show that this hemisphere is dedicated to the interests of peace, and that we should endeavor to find pacific solutions for all the controversies that may arise.

**H**OW shall we promote peaceful settlement? I think there are three ways:

*First:* By conferences. By those important periodical meetings at which we can promote a better acquaintance and have a candid interchange of views.

*Second:* By means of conciliation. That is to say, the provision of some practical means by which when difficult situations arise reason may have its play before force takes the field.

*Third:* In the judicial settlement of controversies. Reasons and justice must have their institutions. They cannot exist merely as abstract concepts to which we pay our verbal devotion. The great problem is how to establish them; how to secure agreement upon them.

**N**OW we have certain categories of controversies. We have controversies to which there are principles of law and of equity that are applicable. We call those justiciable questions. We could probably find a basis for agreement with regard to question of that class.

**I** QUITE understand that questions of that class might sometimes involve sovereignty and independence. We cannot make progress by putting our heads in the sand. No nation will knowingly submit to arbitration its sovereignty, whether it is called a justiciable question or has some other legal nomenclature to describe it. But we do have certain classes of cases which we call justiciable, which with limited exceptions we can agree upon.

**T**HEN there are controversies which are relating solely to political expediency, and to which no principles of law or of equity apply. These give us the greatest difficulty. It is not that we object, or any of us here would object to the impartial decision of the most enlightened mind representing the justice of the Deity even in such questions.

**B**UT we fail to find an assurance of that orderly and wise disposition in ordinary arbitral decisions. It is not the lack of a desire to have a pacific settlement, but the difficulty in the nature of the question, because you submit to the arbitrator something as to the decision of which he has no principle to guide him.

**T**HEN there is a third class of cases of controversies which should not be strictly regarded as international controversies at all. One State objects to the internal legislation of another State, in a matter entirely within the province of that State. The objecting State should recognize that that is a matter of internal government. But internal Government projects in these days of intimate relations, in the actual force of its decisions, into areas where other governments seek to found a freer play.

**S**O about internal questions, some controversies may arise. We all have questions in each of our countries which we think are within our competency because they relate to internal administration. I could name some and I could enumerate questions of that sort which I am sure many other countries would never submit to arbitration.

**N**OW we must face the facts in this matter fairly. My conception of amity among the nations is a sort of friendship which will enable us to deal with these difficult questions in our negotiations with each other without the effort to compel nations to relinquish rights or to change their internal organization or to submit to the decrees of others in matters which affect internal regulations according to their conceptions of their interests. So our problem is what progress can we make?

**T**HERE is one class of controversies about which we can make a convention without great difficulty. Those are controversies relating to questions involving the interpretation of treaties or the principles of international law, where the claims are for loss of life or personal injuries, or injuries to property, and when the reparation sought is entirely pecuniary.

**W**E could have a claims convention without going into some of the difficulties which would arise in dealing with a broader convention. I do not mean to exclude the broader convention; I am simply thinking of making practical progress by having something on which we can start with a maximum of agreement. We can have two classes of convention relating to pecuniary claims and another convention relating to broader matters.

**W**HEN we come to the broader convention we would then consider the various categories of the controversies to which I have referred and endeavor to see how closely we can come to an agreement in sympathy with the principle, of making all the progress possible.

**W**HILE States might not be willing to submit to arbitration various delicate questions which they thought impinged upon the free exercise of their internal authority, still it might be possible to have joint commissions whose reports advising the different Governments and Legislatures would be of great value.



IN 1909 the United States made its treaty with Great Britain with respect to Canada, establishing a joint commission in which each Government has an equal number of members and to which all sorts of questions arising on our boundary can be referred for examination, the taking of testimony and report to the respective Governments.

A NATION may be willing, entirely willing, to have a permanent joint commission with its neighbor or neighbors, so that in any question that arises there may be an explication of the questions not for the purpose of decision but so that each Government may be advised of the views and findings of a commission on which they have an equal representation, and then its Legislature, supreme in its sphere, can act with that knowledge.

THIS plan has worked very well, and questions which might not perhaps have been submitted to arbitration, some of difficulty, some of delicacy, have been considered by the permanent joint commission and reports have been made which led to satisfactory adjustments.

LET us be astute to find means suited to the different exigencies which we cannot escape.

I DESIRE to show you the sincere cooperation of the United States, which is opposed to any act of aggression; which desires to see force eliminated from the hemisphere;

which is seeking nothing but the good order, the independence and the prosperity of all the American States.

PERMIT me also to take this opportunity of expressing entire accord with the proposal of Dr. Gonzales of Mexico with respect to the resolution which might be properly adopted by this conference.—*Extracts see 9, p. 106.*

#### *The Mexican Resolution to Outlaw Aggressive War*

On February 16, at the sixth Pan-American Conference Fernando Gonzales Roa of Mexico introduced the following resolution:

"Whereas, The American nations must always be inspired by cooperative solidarity to achieve justice and the general welfare;

"Whereas, Nothing so interferes with this cooperation as the use of violence;

"Whereas, There is no international dispute, no matter how serious, which cannot be settled pacifically if the parties really desire a pacific solution, and,

"Whereas, War of aggression constitutes an international crime against humanity; therefore be it

"Resolved, That all aggression be considered illegal and accordingly be prohibited and that all the American nations shall employ pacific means for the solution of all conflicts which may arise between them."

## *The International Joint Commission*

The United States-Canadian Court which Mr. Hughes Described as a Successful Type of  
International Tribunal which Might be Immediately Established by Other Nations of the  
Western Hemisphere



NEGOTIATIONS were entered into at Washington in 1907 and 1908 between the then British Ambassador to the United States, James Bryce and the then Secretary of State, Elihu Root, which finally culminated in the Treaty of January 11, 1909, ratified and proclaimed the following year.

The Treaty was confirmed, so far as Canada was concerned, by an Act of Parliament in 1911. Special legislation was not necessary in the United States, the Senate having already ratified the Treaty.

Under the provisions of Article VII of this Treaty the International Joint Commission was established, composed of six commissioners, three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

The Treaty of January 11, 1909, consists of fourteen articles in addition to the Preamble and the Preliminary Article. The Treaty is designed not merely to settle questions at issue between the two countries, but to prevent disputes. The Preamble seems to confine the Treaty to disputes involving the use of boundary waters, or interests along the common frontier, but the provisions of Article X go further.

Article X provides (in part) that:

"Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada, either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent

of the Senate, and on the part of His Majesty's Government with the consent of the Governor General in Council.

"A majority of the said Commission shall have power to render a decision or finding as to any questions or matters so referred.

"If the said commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure described in the fourth, fifth and sixth paragraphs of Article XLV of the Hague Convention for the pacific settlement of international disputes, dated October 18, 1908. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree."

In his opening statement as chairman of the organization meeting of the Commission, Mr. Tawney made the following statement:

"The work of promoting closer and more direct relations between the two great peoples on this continent who have the same language, come from the same race, have the same common fountain of law, the same traditions, and similar institutions of government, as well as the same ambitions for the continued success of their respective governments, is in the work of blazing the trail for judicial settlement of all disputes where they occur between any two great nations."—

*Extracts, see 13, p. 106.*



# The Briand Proposal to Outlaw War

## France and the United States Exchange Views

### A Chronology of Recent Significant Events in the Movement to Outlaw War

#### France

On April 6, 1927 M. Aristide Briand, French Minister of Foreign Affairs, issued a statement to the press in Paris as follows (translated from the French):

"For those whose lives are devoted to securing this living reality of a policy of peace, the United States and France already appear before the world as morally in full agreement. If there were need for those two great democracies to give high testimony to their desire for peace and to furnish to other peoples an example more solemn still, France would be willing to subscribe publicly with the United States to any mutual engagement tending to outlaw war, to use an American expression, as between these two countries. The renunciation of war as an instrument of national policy is a conception already familiar to the signatories to the Covenant of the League of Nations and of the Treaties of Locarno. Every engagement entered into in this spirit by the United States toward another nation such as France, would contribute greatly in the eyes of the world to broaden and strengthen the foundations on which the international policy of peace is being erected. These two great friendly nations, equally devoted to the cause of peace, would furnish to the world the best illustration of the truth that the immediate end to be attained is not so much disarmament as the practical application of peace itself."

On June 3, 1927 M. Briand transmitted to the U. S. Government, through the American Ambassador at Paris, his proposal, in definite form, to outlaw war between France and the United States.

On January 5, 1928, the following note from the French Ambassador was sent to the U. S. Secretary of State:

"By a letter of December 28th last your Excellency was kind enough to make known the sentiments of the Government of the United States concerning the suggestion of a treaty proposed by the Government of the Republic in the month of June, 1927, with a view to the condemnation of war and the renunciation thereof as an instrument of national policy between France and the United States.

"According to Your Excellency, the two governments, instead of limiting themselves to a bilateral treaty, would contribute more fully to the peace of the world by uniting their efforts to obtain the adhesion of all the principal powers of the world to a declaration renouncing war as an instrument of their national policy.

"Such a declaration, if it were subscribed to by the principal powers, could not fail to be an impressive example to all the nations of the world and might very well lead them to subscribe in their turn to the same pact, thus bringing into effect as among all the nations of the world an arrangement which at first was only suggested as between France and the United States.

"The Government of the United States, therefore, would be disposed to join the Government of the Republic with a view to concluding a treaty between the principal powers of the world which, open to the signature of all nations, would condemn war, would contain a declaration to renounce it

*Continued on next page*

#### United States

On December 6, 1927, Senator Capper, Kans., R., introduced in the U. S. Senate S. J. Res. 14, providing for the renunciation of war as a national policy and providing that the United States sign a treaty with France and other like-minded nations to that effect; defining aggressor nations and agreeing that nationals of the contracting government should not be protected by their governments in aiding aggressor nations.

On December 13, 1927 Mr. Fish, N. Y., R., introduced in the House, H. J. Res. 94, the terms of which are practically the same as those of the Capper Resolution.

On December 28, 1927 the U. S. Department of State sent a note to the French Government in reply to the proposal of M. Briand, as follows:

"I have the honor to refer to the form of treaty entitled 'Draft of Pact of Perpetual Friendship between France and the United States', which His Excellency, the Minister of Foreign Affairs was good enough to transmit to me informally last June through the instrumentality of the American Ambassador at Paris.

"This draft treaty proposes that the two Powers should solemnly declare in the name of their respective Peoples that they condemn recourse to war, renounce it as an instrument of their national policy towards each other, and agree that a settlement of disputes arising between them, of whatsoever nature or origin they may be, shall never be sought by either party except through pacific means. I have given the most careful consideration to this proposal and take this occasion warmly to reciprocate on behalf of the American people the lofty sentiments of friendship which inspired the French people, through His Excellency M. Briand to suggest the proposed treaty.

"The Government of the United States welcomes every opportunity for joining with the other Governments of the world in condemning war and pledging anew its faith in arbitration. It is firmly of the opinion that every international endorsement of arbitration, and every treaty repudiating the idea of a resort to arms for the settlement of justiciable disputes, materially advances the cause of world peace. My views on this subject find a concrete expression in the form of the arbitration treaty which I have proposed in my note to you of December 28, 1927, to take the place of the arbitration convention of 1908. The proposed treaty extends the scope of that convention and records the unmistakable determination of the two Governments to prevent any breach in the friendly relations which have subsisted between them for so long a period.

"In view of the traditional friendship between France and the United States—a friendship which happily is not dependent upon the existence of any formal engagement—and in view of the common desire of the two Nations never to resort to arms in the settlement of such controversies as may possibly arise between them, which is recorded in the draft arbitration treaty just referred to, it has occurred to me that the two Governments, instead of contenting themselves

*Continued on next page*

## France

as an instrument of national policy and would substitute therefor the pacific settlement of disputes between nations.

"Your Excellency added that if the Government of the Republic agrees thus to join the Government of the United States and the other principal powers of the world in an appropriate multilateral treaty, Your Excellency would be happy to undertake immediately conversations leading to the elaboration of a draft inspired by the suggestions of M. Briand and destined to be proposed jointly by France and the United States to the other nations of the world.

"The Government of the Republic appreciated sincerely the favorable reception given by the Government of the United States to the proposal of M. Briand. It believes that the procedure suggested by Your Excellency and carried out in a manner agreeable to public opinion and to the popular sentiment of the different nations seems to be of such nature as to satisfy the views of the French Government. It would be advantageous immediately to sanction the general character of this procedure by affixing the signatures of France and the United States.

"I am authorized to inform you that the Government of the Republic is disposed to join with the Government of the United States in proposing for agreement by all nations a treaty to be signed at the present time by France and the United States and under the terms of which the high contracting parties shall renounce all war of aggression and shall declare that for the settlement of differences of whatever nature which may arise between them they will employ all pacific means. The high contracting parties will engage to bring this treaty to the attention of all States and invite them to adhere.

"The Government of the Republic is convinced that the principles thus proclaimed cannot but be received with gratitude by the entire world, and it does not doubt that the efforts of the two governments to insure universal adoption will be crowned with full success."

On January 21, 1928 the French Ambassador sent to the U. S. Secretary of State the following communication:

"Your Excellency was pleased to inform me in your note of the 11th instant, of the consideration suggested to you by my letter of January 5 in answer to your communication of December 28, 1927. My Government has asked me to express to you its satisfaction at the harmonizing, thanks to your Excellency, of the views of the two Governments concerning the best method of accomplishing a project upon the essential principles of which they apparently are in agreement.

"The original French proposal of June, 1927, contemplating an act confined to France and the United States, appeared to the French Government to be both desirable and feasible by reason of the historical relations between the two Republics.

"The American Government was only willing, however, to embody the declaration proposed by the French Government in the preamble of the Franco-American Arbitration Convention now in process of renewal, and considered on the other hand, for reasons of its own which the French Government has not failed to take into account, that there it would be opportune to broaden this manifestation against war and to make of it the subject of a separate act in which the other Powers would be invited to participate.

"The Government of the Republic was not opposed to this expansion of its original plan, but it would not but realize, and it felt bound to point out that the new negotia-

*Continued on next page*

## United States

with a bilateral declaration of the nature suggested by M. Briand, might make a more signal contribution to world peace by joining in an effort to obtain the adherence of all of the principal Powers of the world to a declaration renouncing war as an instrument of national policy. Such a declaration, if executed by the principal world Powers, could not but be an impressive example to all the other Nations of the world, and might conceivably lead such Nations to subscribe in their turn to the same instrument, thus perfecting among all the Powers of the world an arrangement heretofore suggested only as between France and the United States.

"The Government of the United States is prepared, therefore, to concert with the Government of France with a view to the conclusion of a treaty among the principal Powers of the world, open to signature by all Nations, condemning war and renouncing it as an instrument of national policy in favor of the pacific settlement of international disputes. If the Government of France is willing to join with the Government of the United States in this endeavor, and to enter with the United States and the other principal Powers of the world into an appropriate multilateral treaty, I shall be happy to engage at once in conversations looking to the preparation of a draft treaty following the lines suggested by M. Briand for submission by France and the United States jointly to the other nations of the world."

December 28, 1927—"The Secretary of State transmitted to the French Government a draft of a proposed treaty of arbitration replacing the Arbitration Treaty of February 10, 1908, which expires on February 27, 1928. This proposed treaty of arbitration is, of course, entirely separate from the reply to M. Briand's proposal. Identical arbitration treaties are being submitted to other Powers having arbitration treaties with the United States which expire shortly." (*Press Release from U. S. Department of State.*)

On January 11, 1928 the U. S. Secretary of State sent the following note to the French Ambassador:

"In the reply which your Government was good enough to make to my note of December 28, 1927, His Excellency the Minister of Foreign Affairs summarized briefly the proposal presented by the Government of the United States, and stated that it appeared to be of such a nature as to satisfy the views of the French Government. In these circumstances he added that the Government of the Republic was disposed to join with the Government of the United States in proposing for acceptance by all nations a treaty to be signed at the present time by France and the United States, under the terms of which the High Contracting Parties should renounce all wars of aggression and should declare that they would employ all peaceful means for the settlement of any differences that might arise between them.

"The Government of the United States is deeply gratified that the Government of France has seen its way clear to accept in principle its proposal that, instead of the bilateral pact originally suggested by M. Briand, there be negotiated among the principal powers of the world an equivalent multilateral treaty open to signature by all nations. There can be no doubt that such a multilateral treaty would be a far more effective instrument for the promotion of pacific relations than a mere agreement between France and the United States alone, and if the present efforts of the two Governments achieve ultimate success, they will have made a memorable contribution to the cause of world peace.

"While the Government of France and the Government of the United States are now closely in accord so far as the

*Continued on next page*

## France

tion as proposed would be more complex and likely to meet with various difficulties.

"The question as to whether there would be any advantage in having such an instrument, of a multipartite nature, signed in the first place by France and the United States, or else first elaborated by certain of the principal Powers of the world and then presented to all for their signature, is essentially one of procedure.

"The Government of the Republic refrained from offering suggestions upon this point solely because of its desire more speedily and more surely to achieve the result which it seeks in common with the United States. This is tantamount to saying that it is ready to concur in any method which may appear to be the most practicable.

"There is, however, a situation of fact to which my Government has requested me to draw your particular attention.

"The American Government cannot be unaware of the fact that the great majority of the Powers of the world, and among them most of the principal Powers, are making the organization and strengthening of peace the object of common efforts carried on within the framework of the League of Nations. They are already bound to one another by a covenant placing them under reciprocal obligations, as well as by agreements such as those signed at Locarno in October, 1925, or by international conventions relative to guarantees of neutrality, all of which engagements impose upon them duties which they cannot contravene.

"In particular, your Excellency knows that all States members of the League of Nations represented at Geneva in the month of September last, adopted, in a joint resolution tending to the condemnation of war, certain principles based on the respect for the reciprocal rights and duties of each. In that resolution the Powers were led to specify that the action to be condemned as an international crime is aggressive war and that all peaceful means must be employed for the settlement of differences, of any nature whatsoever, which might arise between the several States.

"This is a condition of affairs which the United States, while a stranger thereto, cannot decline to take into consideration, just as must any other State called upon to take part in the negotiation.

"Furthermore, the United States would not in any way be bound thereby to the provisions of the covenant of the League of Nations. The French proposal of June last looking to the conclusion of a bi-lateral compact, had been drawn up in the light of the century old relations between France and the United States; the French Government still stands ready to negotiate with the American Government on the same conditions and on the same basis. It has never altered its attitude in that respect. But when confronted by the initiative of the United States in proposing a multipartite covenant, it had to take into consideration the relations existing among the various Powers which would be called upon to participate therein. This it has done, with the object of assuring the success of the treaty contemplated by the United States. Its suggestions of January 5 as to the terms of the multipartite treaty are inspired by the formula which has already gained the unanimous adherence of all of the States members of the League of Nations, and which for that very reason might be accepted by them with regard to the United States, just as it has already been accepted among themselves.

"This is the explanation of our proposal of January 5.

"The Government of the Republic has always, under

*Continued on next page*

## United States

multilateral feature of the proposed treaty is concerned, the language of M. Briand's note of January 5, 1928, is in two respects open to an interpretation not in harmony with the idea which the Government of the United States had in mind when it submitted to you the proposition outlined in my note of December 28, 1927. In the first place, it appears to be the thought of your Government that the proposed multilateral treaty be signed in the first instance by France and the United States alone and then submitted to the other Powers for their acceptance. In the opinion of the Government of the United States this procedure is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one of the other great Powers. In such event the treaty could not come into force and the present efforts of France and the United States would be rendered abortive. This unhappy result would not necessarily follow a disagreement as to terminology arising prior to the definitive approval by any Government of a proposed form of treaty, since it is by no means unreasonable to suppose that the views of the Governments concerned could be accommodated through informal preliminary discussions and a text devised which would be acceptable to them all. Both France and the United States are too deeply interested in the success of their endeavors for the advancement of peace to be willing to jeopardize the ultimate accomplishment of their purpose by incurring unnecessary risk of disagreement with the other Powers concerned, and I have no doubt that your Government will be entirely agreeable to joining with the Government of the United States and the Governments of the other Powers concerned for the purpose of reaching a preliminary agreement as to the language to be used in the proposed treaty, thus obviating all danger of confronting the other Powers with a definitive treaty unacceptable to them. As indicated below, the Government of the United States would be pleased if the Government of France would agree that the draft treaty submitted by M. Briand last June should be made the basis of such preliminary discussions.

"In the second place, and this point is closely related to what goes before, M. Briand's reply of January 5, 1928, in expressing the willingness of the Government of France to join with the Government of the United States in proposing a multilateral treaty for the renunciation of war, apparently contemplates that the scope of such treaty should be limited to wars of aggression. The form of treaty which your Government submitted to me last June which was the subject of my note of December 28, 1927, contained no such qualification or limitation. On the contrary it provided unequivocally for the renunciation by the High Contracting Parties of all war as an instrument of national policy in the following terms:

"Article 1.—The High Contracting Powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy towards each other.

"Article 2.—The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America shall never be sought by either side except by pacific means.

"I am not informed of the reasons which have led your Government to suggest this modification of its original proposal, but I earnestly hope that it is of no particular signi-

*Continued on next page*



## France

all circumstances, very clearly and without mental reservation declared its readiness to join in any declaration tending to denounce war as a crime and to set up international sanctions susceptible of preventing or repressing it. There has been no change in its sentiments in that respect; its position remains the same. Your Excellency may therefore be assured of its sincere desire to respond to the idea of the American Government and to second its efforts to the full extent compatible with the situation of fact created by its international obligations. It is this preoccupation which inspired the formula proposed on January 5, a formula which does indeed seem to be the most apt at this time to assure the accomplishment of the American project. The Government of the Republic accordingly cannot but hope that the American Government will share this view. Subject to these observations, the Government of the Republic would, moreover, very gladly welcome any suggestions offered by the American Government which would make it possible to reconcile an absolute condemnation of war with the engagements and obligations assumed by the several nations and the legitimate concern for their respective security."

On February 6, 1928, the arbitration treaty between France and the United States, proposed by the United States on December 28, 1927, was signed at Washington, and transmitted by the President to the Senate for ratification. This treaty replaces the Arbitration Treaty of February 10, 1908, between France and the United States, which expired on February 27, 1928.

## United States

fiance and that it is not to be taken as an indication that the Government of France will find itself unable to join with the Government of the United States in proposing, as suggested above, that the original formula submitted by M. Briand which envisaged the unqualified renunciation of all war as an instrument of national policy be made the subject of preliminary discussions with the other great Powers.

"If your Government is agreeable to the plan outlined above and is willing that further discussions of the terms of the proposed multilateral treaty be based upon the original proposal submitted to me by M. Briand last June, I have the honor to suggest that the Government of France join with the Government of the United States in a communication to the British, German, Italian and Japanese Governments transmitting the text of M. Briand's original proposal and copies of the subsequent correspondence between the Governments of France and the United States for their consideration and comment, it being understood, of course, that these preliminary discussions would in no way commit any of the participating Governments pending the conclusion of a definitive treaty."

## An Analysis of the Briand and Kellogg Proposals

By Arthur Deerin Call, Editor, *Advocate of Peace*



HE most astonishing proposal in the name of international peace, at least within the last decade, came from our Secretary of State in a note to the French Minister of Foreign Affairs, Aristide Briand, December 28, 1927, which note proposed "an effort to obtain the adherence of all the principal powers of the world to a declaration renouncing war as an instrument of national policy." This means that our Department of State is ready to join with the other principal powers to renounce all war as an instrument of national policy. To one at all acquainted with the struggle of the peace workers during the last one hundred years this is an astonishing statement indeed.

When M. Briand transmitted to our government last June his "draft of pact" between France and the United States, his proposed treaty aroused little interest in this country except among a few. It proposed that the United States and France should condemn resort to war and renounce it as an instrument of national policy. From the text, it is clear that M. Briand proposed the renunciation of all war as an instrument of national policy for France and the United States.

While there was considerable enthusiastic support by a limited number of persons in our country, the proposal was definitely condemned by others. It was pointed out, for example, that the proposal, if accepted, would be in violation of our policy of treating all nations alike; that it was more in the nature of a political expedient than an extension of those judicial processes upon which rests most securely the abiding processes of peace. It was further pointed out that the proposal could not be accepted under our Constitution, because under the terms of that instrument Congress is specifically given the right to declare war. It was felt by some that if the plan were generally adopted it would estab-

lish the disinterestedness of the United States in every European conflict and make it impossible for this country to extend aid to a deserving nation, as we chose to do in 1917. In short, it might mean, under certain circumstances, that the United States would find itself deprived of the right to defend the right by force. And yet our State Department has accepted M. Briand's original proposal with the understanding that it be extended to include all the principal powers of the world.

Mr. Kellogg's proposal has aroused astonishment, especially in Europe. One reason for this astonishment, of peculiar interest to the United States, is the unanimity with which the European press points out that the proposal runs counter to certain articles of the Covenant of the League of Nations—indeed, of the Locarno Treaties—which articles provide under certain circumstances for the waging of war by the League or by allies. Mr. Kellogg's proposal, if adopted, would do away with the machinery of sanctions contemplated by the Covenant and with the guarantees in the treaties of Locarno. This is found, particularly in France, to constitute an insuperable objection. Then, too, the English press finds it difficult to square Mr. Kellogg's proposal with our Government's enlarged naval program. Furthermore, there is the United States Senate. How it will treat the proposal, once it appears before that body, in the light of that section of our Constitution which grants to Congress the right to declare war, remains to be seen. Some are led to ask if the United States is proposing to renounce its right to uphold the Monroe Doctrine by force, if necessary. Others wonder what is meant by the phrase first used by M. Briand, "An instrument of national policy." The fact is, that Mr. Kellogg's proposal is astonishing.—

*Extracts see 12, p. 106.*



## Is the Briand Proposal Practical?

Pro

HON. ARTHUR CAPPER

U. S. Senator, Kansas, Republican



ETHODS and measures for preserving the peace among nations are in danger of becoming sicklied o'er with the pale cast of mere words. The people of all nations ask more from governments than sentimental professions of pacific purposes. They rightly demand that enlightened governments move forward toward making such professions good by deeds. Deep in their hearts they are done with the stupidity, tyranny and enormous destruction of war.

We are under the necessity of doing something constructive to give expression to what is obviously overwhelming public sentiment in the United States relative to the discontinuance of war and preparations for war.

If M. Briand's proposal be accepted as between the United States and France and offers are made to extend it at once to Great Britain, to Germany, to Japan and to Italy, the chance of future wars would be reduced to a minimum so long as the other contracting nations keep the faith. As it is obvious that they themselves would not go to war with each other and by refusing jointly and severally to aid an aggressor nation, they would thereby make any war between two lesser nations virtually a local affair.—*Extracts, see 15, p. 106.*

PROFESSOR JAMES T. SHOTWELL

Director of Economics and History, Carnegie Endowment.



HEN on the sixth of April last, on the tenth anniversary of America's entrance into the World War, M. Briand, Foreign Minister of France, stated in an interview with the Associated Press, in Paris, that France would willingly subscribe publicly with the United States to the outlawry of war as between the two countries, few at first in either France or the United States paid any attention to this most remarkable utterance. After attention had been called to it, however, by President Nicholas Murray Butler, favorable comment by statesmen and in the press, generally, indicated a wide and growing interest in the proposal.

On March twenty-second last I had a conversation with M. Briand in which the general subject was discussed of the possibility of a joint statement by France and America of common ideals and attitudes in France and America with reference to the elimination of war. It was evident from this conversation that M. Briand was already studying the ways and means by which to give expression to this feeling of solidarity in fundamentals between the two great democracies in spite of all the technical difficulties which might arise and were then in fact arising over the question of disarmament. When, therefore, M. Briand, in the course of his tribute to America's participation in the war, stated these common ideals as the basis of a program for future policy, it seemed to call for some more definite understanding upon our part of so far-reaching a proposal.

Consequently, in response to the request of some of my friends, I have undertaken, in collaboration with Professor Joseph P. Chamberlain, to state the meaning of the

*Continued on next page*

Con

FRANK H. SIMONDS

Foreign News Correspondent



It would be difficult to imagine any single episode which could better illustrate the difference between American and European thought on the subject of peace than that of the discussions between Washington and Paris concerning the outlaw of war.

Quite patently this proposal as it came from Secretary Kellogg, in his letter replying to the original proposal of M. Briand, represented a program which was taken seriously both by the American Government and people. Manifestly in their minds it stood for something which, if accepted, might contribute to the maintenance and extension of peace in the world.

Viewed in its European setting, however, what did the same proposal mean? Of itself practically nothing. And this was the case because no European country shares even remotely the American idea that war can be prevented by resolution or outlawed by treaties.

So far as France and Briand were concerned, the original Briand proposal meant just this: Word had been conveyed to Paris that American opinion, at least so far as it was voiced by the famous Senator Borah, was inclining to look with approval upon the proposal to outlaw war by some international operation which one might vaguely compare to the taking of the pledge, where alcohol is concerned.

What then could be more attractive as a diplomatic operation than to propose such a treaty? In the first place it could do no harm, because the possibility of war between the United States and France simply does not exist in any mind. In the second place the traditional Franco-American friendship, perhaps a little cooled on the American side by the debt policy of France, might be revived by such a step. Indeed, with Dawes plan revision and new debt conversations looming, it might prove a good preparatory move.

When, however, the American Government proposed to extend the declaration outlawing war, and to invite many if not all, nations to subscribe, then Paris at once took alarm. And the French government took alarm because this apparently innocent and moral project laid an ax at the whole structure of peace in Europe, as established and maintained through the League of Nations. In a word, it put all French security instantly in jeopardy.

Instantly to the French mind the new American proposal became as dangerous as that other proposal emanating from Washington—namely, parity—during the Geneva Naval Conference, appeared in British eyes.

Obviously, this was true because the fundamental conception of the League of Nations is not to outlaw war, but to establish the conditions on which war must be made by all member nations.

To put the thing concretely, the covenant of the League provides that if any nation attacks a member country in a fashion pronounced by the council of the League to be unprovoked, it is the business of all member nations to use their resources, military, naval and economic, against the aggressor.

What, then, would be the situation if Germany, for

*Continued on next page*

## Pro—continued

PROFESSOR JAMES T. SHOTWELL—continued

Briand offer in the most definite terms possible, in the shape of a draft treaty which embodies all the mutual obligations which the adaptation of the principles of Locarno to America would imply.

The Draft Treaty consists of two main parts: Part I on the renunciation or "outlawry" of war is in its main terms taken literally from the Treaty of Locarno. Part II, providing for arbitration and conciliation, is taken almost literally from our two existing treaties with France—all that we have bearing on this subject—the Arbitration Treaty of 1908 which expires automatically on the 27th of February, 1928, and the so-called Bryan Treaty "for the Advancement of General Peace."

A treaty of this kind will hardly be found suitable for application with nations which have widely different conceptions of political institution and varying degrees of political development. The "renunciation of war as an instrument of policy" should not be made a formula so all-inclusive as to prevent civilized Powers from measures of an international police under certain circumstances. This is perhaps the most difficult problem left us in the development of international justice.

It is surely not a valid objection to a document of this kind that it does not attempt to make provision for universal application, if by so limiting its scope it can apply definitely as between the great civilized Powers. It is, after all, by steps such as these that the instruments of universal peace may finally be discovered.

The document, therefore, is simply an attempt to set forth in the plainest language suitable to such matters what it would mean to the United States if it were to bind itself to policies of peace and not to resort to war as an "instrument of policy," to use the phrase in M. Briand's offer. A study of this document will show that it involves no real departure from our settled policies and that an American Locarno could be made the basis of an adjustment of the United States with all the existing instruments of peace that have gone into operation in recent years. Until now we have not found the way to make this adjustment. This is a program which carefully safeguards American sovereignty with reference to every other prerogative except that of aggressive war. Surely, any American who considers the proposals laid down here would find it hard to deny their validity without, at the same time, denying the traditional policies and repeated statements of ideals of the United States with reference to this fundamental world problem of peace and war.

The fact that there is no real crisis in world affairs at the present moment does not argue that America has no immediate need of any such framework of peace as is proposed any more than it would argue our giving up armies and navies. The strategy of peace includes both; and the history of 1914 showed that the need of a definite agreed program for times of international crisis was even more important than the timetable of the General Staff. This Draft Treaty does not go so far in its provisions as the Treaty of Locarno and has avoided all the entanglements of the League Covenant. At the same time, it provides against the use of war as an instrument of policy, and if adopted by the United States and the other Great Powers, including Japan, would so extend over the world the spirit of Locarno as to insure not only effective measures of disarmament but world peace in so far as it is possible to guarantee peace by such measures of international insurance.—*Extracts, see 8, p. 106.*

## Con—continued

FRANK H. SIMONDS—continued

example, should one day attack Poland, Germany having signed the Kellogg contract. France by the terms of her alliance with Poland would be bound to go to war for her. But by her adhesion to the Kellogg instrument France would have outlawed war as a procedure at any time in her relations with Germany.

But the Polish alliance is one of the chief elements in the whole series of treaties of alliance by which France insured her own security, when the United States rejected the treaty of guarantee which President Wilson gave Clemenceau during the Paris Peace Conference.

Continental countries, like France, instantly raised their voices against the notion that peace in Europe could be preserved by platonic utterances. As well undertake to eliminate cancer by resolutions adopted in a medical conference was the general and indignant comment.

If the United States actually wanted to help maintain peace, let it join the League of Nations, and not merely refrain from making war aggressively itself, but also by agreeing to join in punitive war made upon any nation guilty of aggression. Such was the general argument which filled the European press from Manchester to Bucharest.

In this situation M. Briand's domestic critics turned upon him with unanimity and denounced him for having gotten into grave difficulties by having attempted to do an inexpensive sentimental thing. And Mr. Briand's clever young men in the Quai d'Orsay were put to it to find some way to avoid what had the appearance of being a dangerous trap. Out of their labors emerged the ingenious suggestion that the agreement should be multi-lateral, but that all powers should sign it with the United States separately; in a word, all countries would collectively and severally agree not to go to war with the United States, but would retain their freedom to employ war as a method to enforce peace under the Covenant of the League.

But this, of course, was something very far removed from Senator Borah's idea. Europe says there must be force. America, by contrast, in the Kellogg proposals, says that the road to peace is by the specific renunciation of the use of force.

While the journals of the Socialists and Communists, the Nationalists and Fascists in all countries have denounced the whole discussion as hypocritical, insincere or merely futile, another section has been just as anxious to see in the new American gesture the revelation of a rapid and reassuring approach of the United States to the League of Nations.

Our shadow is so completely over Europe that no proposal made by our Government, however absurd or unattractive it may actually seem to any European government or people, can be rejected out of hand. Europe wants a new debt arrangement, support for currency stabilization already made or proposed, Dawes plan assistance when the inevitable revision comes along.

Thus, in a sense, the situation in Europe today is what it was with the Allies in 1917-18. The American aid was the all-essential thing. Then President Wilson's proposals, even to the fourteen points, were welcomed with applause and accepted in form. When the peace was made in Paris, the fourteen points had certainly taken on a European rather than an American aspect.

*Continued on page 105*

# Can War Be Outlawed?

Pro

HON. WILLIAM E. BORAH  
U. S. Senator, Idaho, Republican



HE plan to outlaw war involves three leading propositions. First, the creation of a body of international law—the amplification and codification of international law. It involves going as far as it is humanly possible at this time to go in reducing international relations to established rules of conduct, thus bringing international affairs under the reign of law. Secondly, the establishment of an independent judicial tribunal with jurisdiction and power to decide and determine all controversies involving a construction of international law, or treaties. The advocates of the plan do not insist upon the rejection of the present tribunal; they do urge, however, that it be divorced from all connection with international political institutions, that it shall function under a body of laws and be governed in its power and jurisdiction by law—that its jurisdiction shall attach by reason of the nature of the controversy and by authority of law, and not by reason of the consent of the foreign offices of the different governments. Thirdly, the said body of international law shall declare war a crime and no longer recognize war in any way or at any time as a legitimate institution for the settlement of international disputes. In other words, if war should come, it must be without the shield or sanction of law but in violation of it as piracy, or slavery, or peonage, or murder.

It is absolutely certain that there will always be controversies between nations, and equally certain that such controversies must be adjusted, either through orderly, legal methods and under the direction of law and a sense of justice, or by force.

There is not a government on the face of the earth strong enough to declare and carry on war against the aroused and sustained public opinion of the people. If we are to end war, we must get back of governments and diplomats, back of leagues and courts, to that educated, aroused and well-directed public opinion upon which all agreements, all laws, all leagues and all courts must ultimately seek foundation.

Force has its place in the affairs of government, but I contend that it is incidental to a greater power. Why are certain amendments to the Constitution of the United States not enforced? Simply because public opinion is not back of these constitutional provisions. Back of our Constitution and our laws and our courts must be the will and wish of the people, the educated public sentiment of the masses.

Every free government rests in the last analysis upon public opinion; it is public opinion which builds free government, it is public opinion which maintains it.

Laws and courts are but the instruments, the more or less efficient means of executing public opinion. Let us not build our whole theory of government, or of international affairs, our whole theory of life, upon the vicious uncivilized doctrine of force. There are other elements more vital, more controlling. No structure which the human mind can set up can have any permanency without a moral foundation.

All society is concerned in staying the aggressor. If we can prevent aggression, there will be no occasion for pleading self-defense. If we can give prosperity to communities,

*Continued on next page*

Con

ROBERT LANSING  
Former U. S. Secretary of State

DURING the five years which have passed since the Treaty of Peace was signed at Versailles on June 28, 1919, there has been an enormous increase of organizations in the United States with the laudable object of finding a way to prevent the recurrence of a terrible disaster like the World War. These associations are generally national, but some of them are international. They approach the subject from many angles and suggest many ways of achieving the common object which all are seeking. Some of these suggested ways appear to be based on rational and practical grounds, but the majority are without merit because impracticable and unworkable. It is one of the misfortunes which seem inherent in associations of this nature, that they offer opportunity to fanatics and enthusiasts to exploit their ideas which are essentially utopian, but which attract adherents because they aim to accomplish that which all desire to see accomplished, and because visionary possibility, rather than practicability, is given first place by those who are ruled by sentiment in the formulation of a plan to rid the world of violence and to establish the reign of universal peace.

Among the more recent proposals for the insurance of world peace is the one calling upon the nations to make war illegal. Certain organizations have raised a standard inscribed with the words, "Outlaw War." And to that standard have flocked many supporters with the same fatuous enthusiasm that made possible the Children's Crusade. The idea has even won favor with some American statesmen who ought to be endowed with sufficient reason to appreciate the utter futility of such a demand.

The effectiveness of any law is the moral or physical sanction which underlies it. Physical sanctions are the common and prevailing means of law enforcement in view of the frailties of human nature. It is the physical might of government which prevents crime and protects the individual in the enjoyment of his natural rights and liberties. Moral sanctions are those imposed by an individual upon himself and depend on his sense of justice and duty to do what is right. In international law, moral sanctions prevail since there is no supernational power to exert physical sanctions. It is then the good faith of nations, their high sense of obligation, and their standard of international morality that give vitality to the law of nations and justify the word "law" being applied to the principles and precepts which have come to be recognized as those which should regulate the intercourse between civilized states.

If, however, a nation does not respond to moral obligation, or if a government is inspired by immoral motives which place its own selfish interests above the rights of others, what remedy is there but an appeal to arms? Is there any other means by which a nation can maintain the rights of itself and of its nationals? It is the only way to prevent an unscrupulous and ambitious neighbor or rival from wresting from it its independence and sovereignty. All the declarations in the world as to the wickedness and lawlessness of war will not prevent the use of force. Submission and passive resistance will not save the life of a nation if it is invaded by the armies and navies of an enemy seeking its destruction. There is but one way in such a case to preserve the national

*Continued on next page*



## Pro—Continued

HON. WILLIAM E. BORAH—continued

men will not need to steal to keep hunger from their children. The end which we are striving to attain is to prevent men from appealing to force or violence either as between individuals or as between nations—to stay aggression. What we desire is to let those who would start wars, who would gratify greed and ambition in that way, understand that law is against them, public opinion is against them, and that they proceed in their schemes of aggression, not under the shield of law, but in defiance of it, and in the face of its condemnation.

Assuming that the principles we contend for were invoked in international law, accepted by the leading nations, with public opinion behind them, would it not seem certain that it would have a staying effect upon all those who appeal to war for the acquisition of territory and to gratify ambition? If we are to prevent war or to reduce the chances of war, every means known, moral, educational, arbitral, legal, must be harnessed for the struggle.

A code of international law declaring war a crime and making criminally liable those who foment war could be carried out as successfully as any provision of domestic law in the United States. Under our Constitution, Congress may punish violations of international law, and so could other nations.

Cooperation between Europe and the western continent, in their respective efforts to work out plans of peace, must be through a body of international law construed by an uncontrolled judicial body, a judicial body free alike from American and European politics. It does not seem to me possible to conform the politics of these different continents to a common political scheme for peace. But it would seem that there are certain fundamental principles of right and justice and peace which could be embodied in international law supported by the public opinion of the world.

If war is ever to be resorted to, the American people will reserve the absolute freedom to determine when and where and under what circumstances such action shall be taken. It is not for us to say what form of government other people shall have nor what plans and schemes for peace Europe may have. It is only when we are asked to join or become a part of them that we are not only justified but commanded by every sense of patriotic duty to examine these proposals with candor and courage.

We have seen peace schemes and plans and alliances, all recognizing war as a legitimate institution for the settlement of international disputes, all based in the last analysis upon force organized to prevent or minimize war. As a result, we are on the very verge of universal breakdown.

It is not time to lay the ax at the root of the tree, to recognize war no longer as legitimate, to declare nations and men criminals who engage in this super-crime? It is the moral and educational and legal foundation upon which all plans and schemes and hopes of peace must rest.

Greed is one of the great causes of war. Can we ever remove it? Ambition, love of power, territorial acquisition, are causes of war. Can we ever remove them? Ex-President Wilson declared at St. Louis that commercial rivalry was the cause of the World War. Does anyone expect to remove commercial rivalry? Does anyone desire to remove commercial rivalry? Certainly not. But you can bring men to understand that commercial rivalry must be waged within the compass of established laws and within the rules

*Continued on next page*

## Con—Continued

ROBERT LANSING—continued

safety, and that is by matching force against force, by resisting with all the physical might possessed by a nation the invasion of its territory and the infringement of its rights.

War cannot be outlawed, because under certain conditions it is the only means of preserving national life, because it is often the only means of protecting the rights to which a nation and its people are entitled by every principle of justice and morality. The law which far transcends any man-made law, is the supreme law of self-preservation.

If all nations were moral and responsive to moral sensibilities, there might be something to the cry, "Outlaw War." But, unfortunately for the peace of the world and the welfare of mankind, civilization has not attained so high a plane, nor does such a condition seem imminent. It would mean the millennium, and that is far in the future. Many nations among those which we term civilized show themselves covetous and selfish and disposed to take every advantage in international affairs, provided it will increase their power and prestige. Recent years have given ample evidence of this aggressive spirit which has persisted in human relations since the very dawn of history. It sometimes manifests itself in an economic way; sometimes in a political way; sometimes by the exercise of force, and, if this is true of civilized nations, what of the semi-civilized nations of the earth? In their conception of right action, moral obligation plays no part. They know but one law, and that is the law of the strong. Are the civilized nations by declaring war to be outlawed and refraining from engaging in it to become the prey of the semi-civilized, of those lacking moral sense? Are the most enlightened to submit to the unenlightened out of a sentimental adherence to a declaration, when adherence means national ruin or annihilation?

Until all nations stand on the same high plane of morality and prove by their conduct that nothing can swerve them from a standard of international ethics which is universally recognized and followed, this talk and discussion of outlawing war is as useless as it is foolish.

One may deplore the fact that wars take place. One may agree that war is an evil and contrary to the highest ideals of modern thought, but under existing conditions to attempt to abolish it by proclaiming it illegal is utterly futile. And, when these dreamers suggest that it can be accomplished by binding themselves as individuals to take no part in any way in arming their country against attack or in resisting foreign aggression, they assume an attitude as irrational and indefensible as it is unpatriotic. They not only preach a pernicious and dangerous doctrine, but they invite the contempt and ridicule of all thinking men.

Until human nature changes and all nations become uniformly virtuous, war cannot be abolished by mandate. The way to stop wars under present conditions is to remove as far as possible their causes. Mutual confidence and cooperation between nations should be cultivated, friendly and fair economic competition practiced, while diplomatic intercourse should be frank and unequivocal and founded on the immutable principles of justice. These elements in international relations create an atmosphere of concord and good will which are especially favorable to the amicable adjustment of disputes between governments through the peaceful channels of diplomacy, arbitration and mediation. It is by such means and by the force of world public opinion that causes of war can be removed and international peace preserved.

*Continued on next page*



## Pro—Continued

HON. WILLIAM E. BORAH—continued

of reason, that controversies concerning matters of commerce may not be settled by force, that these things should be settled as disputes relative to commercial rivalry in private affairs are settled, under the law and through the courts.

Is there any law upon the statute books which awaited its enactment for the removal of all causes of crime with which the law was intended to deal? Did we remove the cause of piracy before we outlawed it? Have we removed the causes of murder or theft? Certainly not. We pass laws that men may not push causes to the point of violence. There will always be causes for war. There will always be controversies. There will always be ambitious men and blundering criminal diplomats. And the supreme question is: Shall we adjust these matters and restrain the actors by means of and under the influence of law? Shall we settle such controversies by appeal to violence or to law? Shall men who appeal to violence be protected in the belief and the knowledge that they have a legal right to make such an appeal? If we are ever going to reach a time when these controversies and conflicts are to be settled under and through the process of the law, certainly we must begin by outlawing the opposite of law—war. We must repudiate the antithesis of law—violence.—*Extracts, see 7, p. 106.*

SALMON OLIVER LEVINSON

*Author, Levinson Proposal to Outlaw War*

LL wars between nations are and always have been legal. Such wars have never been made unlawful by treaty or pronouncement of international law since the dawn of history. The legality of international war is the fatal defect in the fabric of our civilization. It is unlawful and criminal for an individual to kill another, but it is perfectly lawful for a sovereign or a government to cause the death of ten million individuals. Here again we are victims of traditional aphorisms: "The king can do no wrong,"—therefore, the king can arbitrarily put anybody to death he sees fit. "Sovereignty (that is, government) is above all law." The belief has been general and has been carefully fostered by the war offices, imperialists, and militarists that the sovereignty of a nation must be kept inviolate, its powers unimpaired, and its rights unlimited. This is strange again because the people create the government, and yet have no control over that sovereignty, once created. We must face these wicked fallacies or we shall never get rid of war.

The legality of international war is strikingly shown when compared with a war of liberation, commonly called revolutionary war. A war of liberation is illegal, is criminal,—to wit, high treason,—whereas a war of aggression or conquest is perfectly lawful. Washington, Madison, and Hamilton had to incur the felonious risk of high treason, but a Napoleon or a Kaiser in instituting war is guilty of no crime known to international law.

No attempt has been made to codify international law, which, of course, should be based upon equality and justice between nations. Indeed, all attempts to codify have been choked off. The last effort was by Mr. Root, who was invited to sit with the Committee of Jurists in Europe in 1920. He proposed such a code. Lord Balfour, however, came to the rescue of Old World diplomacy and prevented

*Continued on next page*

## Con—Continued

ROBERT LANSING—continued

But, when a government is controlled by covetousness and by a determination to acquire territory or power, motives all too prevalent in this age and generation, and when its conduct conforms to these improper motives and seeks to accomplish its purposes by physical might, war is the only means by which another nation can protect its independence and sovereignty from impairment or destruction. War, in these circumstances, is not only legal, it is righteous, for force is the one way to meet force.

As a civilized nation will never at the present time admit to the world that it wages an aggressive war, but invariably asserts that it was justified in taking up arms because its rights were threatened, its legal right to make war is declared. Who is to pass judgment on the rightfulness of that declaration and on the legality of the war? Where rests the authority to decide which belligerent is guilty of aggression and deserving of condemnation? How, then, can either party to an international conflict be denounced as employing force illegally and without justification? Only world public opinion and history yet to be written can determine which party was in the wrong, and that an appeal to force was in violation of legal right and moral obligation.

In the face of these actualities, the present cry, "Outlaw War," becomes an absurdity, an empty demand from unthinking though well-meaning pacifists, who ignore real conditions and the application to them of logic and reason, and loudly clamor for something which common sense and rational thought perceive to be as impracticable as it is vain. *Extracts see 3, p. 106.*

WALTER LIPPMAN

*Chief Editorial Writer, New York World*

URING the war it was generally believed that the way to prevent war in the future was to make war swiftly and unitedly on all future Germanys. Theodore Roosevelt as early as September, 1914, had urged the formation of what he called an international posse comitatus against "outlaw" nations. This same suggestion was adopted subsequently, under the name of a League to Enforce Peace, by Mr. Taft, Senator Lodge and others. In the spring of 1916 President Wilson was publicly converted to the idea that a war of aggression was the concern not merely of the attacking nation and its victim, but of all civilized nations, that an attack on one was an attack on all, that a breach of the peace should in the future be answered by united enforcement of peace. It was in this context of thought and feeling that a Chicago lawyer, Mr. S. O. Levinson, launched his proposal for "the outlawry of war."

But of Mr. Levinson's phrase nothing much was heard until the first draft of the Covenant of the League of Nations was printed. Then the phrase reappeared in a speech delivered by the late Senator Philander C. Knox. But there had begun a radical change of meaning. The phrase which Mr. Levinson had coined to clarify the purposes of a League to Enforce Peace was now the name of a substitute for the League of Nations. For Mr. Knox, who was the acknowledged leader of the irreconcilables in the Senate, their most courageous guide and their shrewdest counselor, was not content with a purely destructive attack

*Continued on next page*

## Pro—Continued

SALMON OLIVER LEVINSON—continued

its adoption, giving as his reason that the world is not sufficiently advanced to live under the reign of law.

The code should have as its basic principle the outlawing of war, that is, making the use of war for the settlement of international disputes a crime against civilization. Civilization has discovered but two ways to compel the settlement of human disputes, one by law and one by war. In international controversies the resort to war has always been open and lawful. As under the Constitution of Germany, the Kaiser had the sole right to declare war, and as war is a perfectly legal international institution, talk of indicting or hanging the Kaiser for starting the war was both absurd and mere political clap-trap.

Under our plan (to outlaw war) codification would be comparatively simple. It would be a code of peace and not of war, once war is outlawed. This would take away from the bulk of international law perhaps three-quarters of its present contents. A frequent objection raised to the program for outlawing war is the enormous time and difficulty in codifying international law. But it took only several months to prepare the entire Constitution of the United States, and it would seem, therefore, with war eliminated, that the making of the code would be greatly simplified.

The analogy of duelling, or individual war, is most persuasive. Duelling was kept going as a legal institution for hundreds of years, and codes were prepared and changed from time to time. Finally the simple discovery was made that the way to get rid of duelling was to condemn it by law,—to call it by its right name, murder, and thus to outlaw it. Thereupon, duelling as an institution ceased and codes of duelling became museum exhibits.

As a matter of fact, there has been but one real international court set up in the progress of time. The Hague Court of Arbitration, organized in 1899, is a purely arbitral tribunal; it possesses no inherent power to hear any case and during all its existence has had to sit with folded arms until both sides condescend to give it jurisdiction. This judicial helplessness was clearly demonstrated in the dispute between Serbia and Austria-Hungary in 1914 when Serbia appealed to the "Court" for relief. More recently the League of Nations has created an additional tribunal called the Permanent Court of International Justice. The greatest possible blare of trumpets heralding this "Court" has been heard, but in fact it also lacks the essential elements of an effective court. It is just as much an arbitral tribunal as the existing Hague Tribunal. The only real difference between them is that the League Court has a permanent panel of judges so that the court can hear a case whenever the parties consent, whereas the Hague Tribunal selection must be made from an existing panel of about one hundred and thirty-five judges.

But the League Court possesses no inherent power to hear or decide any controversy between nations unless they both consent. For example, in a controversy between Finland and Russia the League wished its Court to give an advisory legal opinion on the subject. Russia, not being a member of the League, the Council assumed that its Court would render such an opinion because Finland, a member, gave its consent. But the Court held that even in such a situation it could not give a mere advisory opinion unless Russia consented, which she did not do. This is judicial child's play. And, of course, we have seen Italy, herself a mem-

*Continued on next page*

## Con—Continued

WALTER LIPPMAN—continued

on President Wilson's project. He acknowledged the need of a substitute, and he started out with Mr. Levinson's help to construct a new plan for peace upon the idea that war should be declared an international crime.

However, within a few months, concurrently with the rising tide of American opinion against the League and all covenants to use force, Mr. Knox and Mr. Levinson changed their minds. In formulating their "plan to outlaw war," they cast aside not only the League, but a league as well, and deprived their international court of any power to enforce its decrees.

After the death of Senator Knox the outlawry of war seemed for a time to be forgotten. President Harding alluded to it at the opening of the Washington Conference, but nothing was done with his suggestion. Then early in the year Senator Borah adopted the slogan and the idea, and became the political leader of what is now an organized campaign.

We find, then, that the phrase was first employed in order to strengthen a League, before there was a League. It was used to defeat the League after there was a League, and to advocate an international court before there was a Court. Now that the Court has been created, it is being used to defeat the Court, and to advocate another court which does not exist.

The phrase is associated then, as a matter of political history, with a perfect record of irreconcilability. How accidental is this association may be judged from the position of Senator Borah. Not once, but many times, Mr. Borah is on record against the League because it is alleged to be a superstate which will destroy our national sovereignty. But this belief about the League does not deter Mr. Borah from employing his eloquence to deride the existing World Court because it has no power to take jurisdiction in all international disputes! Because there has not been formulated by world conference an authoritative code of law covering the matters about which nations dispute! Mr. Borah's confirmed objections to a superstate sleep comfortably in the same mind with his demand for a Supreme Court of the World, modeled on our Federal Supreme Court, having its gigantic powers in conflicts between states, including, if Mr. Borah's analogy means anything, the power to annul acts of all parliaments, including our own Congress!

A position so illogical must be a political accident. There can be no necessary connection between the outlawry of war and the orthodox philosophy of the irreconcilables. There is, rather, a deep contradiction between them, a contradiction so deep that it has produced the extraordinary spectacle of Mr. Borah objecting to a superstate and at the same time demanding a supercourt, and a superconference to legislate a supercode.

Straight is the path and narrow is the gate for those who wish to join Mr. Borah's campaign for the outlawry of war. The idea of attempting to make war a crime still belongs to men of all shades of opinion. But the "outlawry of war," as a political label, is now the name of what purports to be a comprehensive plan of world peace, fundamentally different from any yet attempted, and in the test of action, antagonistic to all.

They believe that this slogan has the power to arouse and then to crystallize mankind's abhorrence of war. They believe a declaration that war is a crime would legalize

*Continued on next page*

## Pro—Continued

SALMON OLIVER LEVINSON—continued

ber of the Council, snap her fingers at the effort of the Council of the League to take jurisdiction under Article 15 of the Covenant to hear the Greek controversy or to refer it to the League Court. Then our international breath was taken away by the unheard-of spectacle of Italy exacting from helpless Greece fifty million lire for damages before the case was heard, before the liability of Greece was pronounced, and before the amount of damages was ascertained. This is judicial mockery, pure and simple.

Some of the smaller nations ask for a basis of equality in judicial procedure with the large nations, whereas the large nations insist upon their traditional advantages. This point marks another essential distinction between the program for the Outlawry of War and all others yet suggested. We are trying to provide judicial machinery for the hearing and disposition, upon a basis of absolute equality, of the disputes that inevitably will arise between the nations. We claim that when San Domingo comes into court against Great Britain, San Domingo should stand on an exact parity with Great Britain so far as justice and right are concerned. Ours is not a political scheme whereby through balances of power and spheres of influence the world is controlled, rights are gobbled up, and territories annex, so that we may get "peace with honor," or some other fine phrase that means the sacrifice of helpless smaller countries.

On this vital point we base our program upon the model of the founders of our Republic. After the Constitution had otherwise been framed, the question arose as to what would happen in the event of a controversy between two of the sovereign units among the thirteen "jealous, jarring, and perverse" states. They desired to abolish war, but what could be done with such a controversy? It was finally decided to clothe the United States Supreme Court with original and exclusive jurisdiction to hear all such disputes, the sovereign states waiving their immunity from suit for the sake of peace and bestowing upon this one great tribunal the power to summon the disputant states and to hear and decide the merits of the controversies. No power was given to the Federal Supreme Court to enforce its decrees except that the states themselves agreed to abide by and carry out such decisions as a part of their adhesion to the Constitution.

The members of the Constitution knew that the physical enforcement of a decree against a state meant war, or the exact equivalent of war. As their object was to get rid of war, that could not be accomplished by utilizing war as a method of enforcement, even though the euphemistic word "Sanction" was employed. Eighty-six cases have been heard by the Supreme Court involving controversies between the sovereign states, and for one hundred and thirty-five years judicial adjustments have been peaceably made and resorts to violence averted. So with the nations. If one of the existing tribunals could be transformed into a real court, with powers similar to that of our Federal Supreme Court over our sovereign states, with a code of peace covering the controversies that arise between the nations, the war problem could be solved by merely following in the footsteps of the greatest judicial experiment in the history of mankind.

For before our Federal Supreme Court every litigant stands equal, Rhode Island the same as Massachusetts, New York, or Texas. The great mind of John Stuart Mill saw the true inwardness of our experiment, and in 1861 he wrote: "The usual remedies between nations, war and diplomacy, being precluded by the Federal Union of the

*Continued on next page*

## Con—Continued

WALTER LIPPMAN—continued

pacifism throughout the world, and deprive the war spirit of its legality and authority. The war-maker would then have to be the conscientious objector, the pacifist would be under the shelter of law and order and conservatism. Once this radical reversal of patriotic and legal values had taken place, war would be almost unorganizable, because pacifism would be the authoritative morality of the nations.

We are dealing then primarily with a moral crusade in favor of complete moral disarmament. If the propaganda were successful, machinery for keeping the peace would not be very necessary, because the propaganda itself, so its sponsors argue, would destroy the will to war. Once nations had learned not to wish to fight, keeping the peace would be an easy matter.

Nevertheless, before men commit themselves universally to a pacifism so radical that it destroys the patriotic code which they are accustomed to associate with their security and their national destiny, it is likely that they will inquire very closely into Mr. Borah's machinery for keeping the peace. He will have to prove, I think, that his court and his code effectively promise to prevent war, if he is to induce mankind to disarm, first morally and then physically. Men will scrutinize rather closely this new code and this new court under which, having rendered themselves militarily impotent, they are to live.

It is clearly easier to arouse large audiences to a denunciation of war in general than it is to persuade them to agree on the principles of a code. Men agree that war is a horror and a crime. They do not agree easily on the fixing of boundaries, the right to secede, the right of revolution, the control of raw materials, access to the sea, the rights of minorities, tariffs, immigration, the status of colonies, the rights of property. They do not agree easily about what constitute, in Mr. Borah's words, "purely international controversies." People are fairly unanimous against war. They are wholly unanimous in their professions of love for "equality and justice." But they quarrel fearfully about what is just and what is equal.

Now when Senator Borah proposes to create a code of international law as a substitute for war he must mean, if he means anything, a code which establishes legal rules covering such questions. But who is to make such a code? The Knox-Levinson plan calls for a world conference to perform the feat, and other advocates speak of a convention of experts and jurists. Little attempt is ever made to describe how this code is to be made. The point is passed over lightly with some reference to the codification and creation of international law.

To create a code "based on equality and justice" is to legislate authoritatively on all the major classes of disputes in which nations engage. The conference which was to make the code would have to lay down laws affecting the very existence of governments and the destiny of nations. It would have to legislate on questions touching their political independence, their liberties, their power, their prestige, their economic opportunities, and their pride.

To talk easily about a conference to create an international code is either idle talk, or it is as stupendous a proposal as can be conceived in politics. It requires for the first time in human history the creation of a genuine world legislature. For, if the code was to be anything more than a set of pious evasions, no one world conference could conceivably create it. One might as well have expected the first United States Congress to create in its first session a

*Continued on next page*



## Pro—Continued

SALMON OLIVER LEVINSON—continued

United States, it is necessary that a judicial remedy should supply their place. The Supreme Court of the United States dispenses international law, and is the first great example of what is now one of the most permanent wants of civilized society, a real international tribunal."

The program for Outlawry of War could be largely effected by a general treaty among the nations agreeing to abolish the institution of war as the method of settling international disputes, arranging a convention for the codification of international law with the illegality of war as its major premise, and creating a court, or utilizing one of the existing courts with proper changes, and conferring upon its jurisdiction over the controversies of the nations similar to that enjoyed by our Federal Supreme Court over the disputes of our sovereign states. The method of outlawing war by treaty shows its simplicity of execution, for treaties have practically never needed sanctions or means of enforcement. A smaller state cannot enforce a treaty against a larger state, and therefore, treaties have necessarily depended for their enforcement upon the good faith and the moral obligation of the nations involved.

One of the many fallacies that obtain in war and peace thinking is that you cannot get rid of war until you remove the causes of war. This objection is used to show the plan to outlaw war is idealistic and therefore of no practical value. As a matter of fact, it is impracticable to get rid of the causes of war and no substantial progress has ever been made in that regard. Certain it is that with all the efforts that have been made towards reducing the severity of war, the last war was the worst of all time and therefore the progress we have been making, if progress it may be called, is backward and not forward. If the plan of our critics had been used with reference to duelling we would not have outlawed duelling until the causes of duelling had been removed. Now as a matter of fact, not a single, solitary cause of duelling has ever been removed to this day. More than that, not a solitary cause of duelling can ever be removed until human nature is utterly transformed from what we know it to be.

The causes of war are in similar category. People do not agree as to what the causes of war are, and views on this subject are as discordant as they are numerous. In fact, the real causes of war are seldom disclosed, but are hidden under the pseudonym of "non-justiciable" causes,—that is, matters affecting the national honor or the vital interests of a nation. To attempt to remove such subtle, manipulated, diplomatic, and surreptitious "causes of war" is really to shut our eyes to the real difficulty. Causes of duelling will be removed when the era of brotherly love has arrived full-panoplied, and identically the same may be said for the causes of war. The great "cause" of the present horrible plight of the world, particularly in Europe, is the infernal institution of war. That is the "cause" we must get rid of, namely the right of a nation legally to go to war and to involve the world in agony, death, and destruction. Unless and until war is put under the condemnation of law, no possible progress can be made towards its removal from the future annals of civilization.—*Extracts, see 11, p. 106.*

## Con—Continued

WALTER LIPPMAN—continued

code of American national law. No: This world conference would have to convene and reconvene, and keep on, in the words of Mr. Borah's resolution, amplifying the code, and expanding it, and adapting it, and bringing it down to date.

This world legislature would unavoidably represent the cabinets and foreign offices of the day. If there is to be law for the court to apply, there must be lawmakers. And lawmakers are politicians, guided for the most part by the pressures of their constituents upon their own ambitions and habits and personal ideals.

It requires no gift of prophecy to see that if he could induce the world to establish such a code, Mr. Borah and his most devoted followers would be lined up against ratification as irreconcilable opponents. They would hate the result if and when they achieved it. For any code created within this generation would have to legalize the status quo at the time the code was formulated. It is unthinkable that Great Britain, France, Japan, or the United States would agree on any specific set of principles which impaired their empires, their Monroe Doctrines, or their alleged strategic requirements. Let fifty nations draw up a catalogue of questions over which they would rather fight than submit to a tribunal, and the amount of war you will have outlawed will not be noticeable.

The advocates of the outlawry of war propose to legalize wars of liberation. Now, if you have the right to go to war for what you call your liberty and the right to go to war because you think an attack is imminent, it would be a stupid Foreign Office indeed which could not legalize any war it thought necessary or desirable. The only war outlawed under this plan is a war openly announced to be a war of aggression. There are no such wars. Even Germany's war in 1914 was dressed up readily enough as a war of defense against an imminent attack by Russia in military alliance with France.

Mr. Borah is proposing to outlaw those wars which can be described as "purely international." He is proposing to outlaw theoretically wars which nobody wishes to wage, since all actual wars result out of the conflict of sovereign, domestic interests. A "purely international controversy" which does not involve, or appear to involve, the domestic safety, domestic interests, or the domestic pride of the disputants is not worth worrying about. To outlaw war simply in respect to such controversies is a lot of trouble for nothing. For, until a man is willing to say that he is ready to submit any and every dispute affecting the peace of the world to adjudication, he has not made up his mind to outlaw war.

Mr. Borah says that "the genius of civilization has discovered but two methods of compelling the settlement of human disputes, namely, law and war." Mr. Borah means by law the judicial process, and in my opinion his generalization is utterly untrue. The genius of civilization has invented, besides law and war, countless other methods of settling disputes. It has invented diplomacy, representative Government, federalism, mediation, conciliation, friendly intervention, compromise, and conference. The notion that the judicial process in a court is the only method of peace is fantastic. Mr. Borah, every day of his life, is engaged in adjusting disputes between the State of Idaho and other States, between capital and labor, between farm bloc and the manufacturers and bankers. If he believed that the

*Continued on next page*



## Pro—Continued

THE WORLD, NEW YORK CITY

## Editorial



T a first hearing it seems almost simple-minded to suppose that anything can be accomplished by declaring that war is illegal. It seems to most people like passing a resolution against snow storms in March. But the time has come to realize that the proposal to outlaw war is seriously meant, seriously thought out and seriously backed.

What this resolution proposes is that the United States Government shall invite the nations of the world to declare that war is a crime. Such an invitation, if it were taken seriously, would be very hard to refuse because to refuse it would be to declare in favor of war as a permanent institution. It would be very difficult to refuse because such an outlawry of war would no more preclude self defense in case of invasion than the outlawry of murder precludes self defense in case of assault. The issue could not be evaded, then, by insisting on the right of self defense. All that would be required would be a declaration by each nation that it regards the making of war by other nations, or by itself, as a public crime in international law.

If such a declaration could ever be got from the nations of the world—and, of course, the difficulty is to get it when nations understand what it implies—the legal and moral advantages of the military party in all countries would be destroyed. Today they are strictly orthodox under the law of nations. The peacemakers are the heretics. Senator Borah's plan would completely reverse this position. Under it the law would be on the side of the pacifist, and with it all the moral, patriotic and emotional support that comes from being on the side which is upholding the law.

Senator Borah's plan would, if carried out, break up the association which now exists between patriotism and militarism. It would make pacifism under the law the patriotic attitude and militarism the unpatriotic.

When you have said that much, you have said enough to show that this proposal has teeth in it. It can be rejected as impossible to accomplish. It can be rejected as undesirable to accomplish. But it cannot be dismissed as negligible. It will compel, and it deserves to compel, profound consideration.

The WORLD is not ready to indorse the plan, because a great many questions involved in it are far from clear. But on one aspect of the matter we have no doubts. This proposal by no stretch of the imagination is in conflict with the plan of the World Court or of the League of Nations. Unfortunately, there are opponents of both who are supporting the Borah resolution as an alternative to the Court and the League.

It is not an alternative. The court and the League are machinery for adjusting disputes. The proposal to outlaw war is a piece of legislation to revise international law. The Court, as the agency for deciding disputes in accordance with international law, would find its powers greater and its jurisdiction widened if the proposal were adopted. The League, in a world where war had been outlawed, would be even more firmly founded than it is today.

The proof of this, if any is needed, lies in the fact that Mr. Borah's resolution provides for a World Court; in the fact that Mr. John Bassett Moore, who now sits on the

*Continued on next page*

## Con—Continued

WALTER LIPPMAN—continued

only alternative to war was resort to the courts, he would not be wasting his talents in a nonjudicial body like the United States Senate.

By the growth of international law some of these disputes can be made justiciable. But, for as long a future as we can foresee, there will remain whole classes of the most dangerous disputes which no code and no court can deal with. For them diplomacy is required, diplomacy working by conference, compromise, bargaining, good offices and also, in the last analysis, I believe, by the threat of force. One may admit the role of force in diplomacy without embarrassment, considering how thoroughly the right to wage war is actually reserved by the advocates of the outlawry of war.

Another remarkable statement in Mr. Borah's resolution is a pronouncement to the effect that our Supreme Court has maintained peace between the States. If that is true, what has been the function of the Executive and the Congress these last one hundred and thirty-five years? Does Senator Borah seriously think that our Supreme Court, existing in a political vacuum, could have adjusted the sectional, group and class conflicts of American history? He cannot think that, and, therefore, when he has stopped to consider the matter, he cannot continue to think that an international court, in vacuo, can maintain the peace of the world.

But Mr. Borah has not fully considered the matter. He speaks in his resolution of conferring upon a "real" international court jurisdiction modeled upon that of our Supreme Court. Mr. Borah has no smallest intention of doing any such thing. We may dogmatically assert this, because we shall as soon behold the sun stand still in the sky as see the irreconcilable Senator from Idaho argue that nine judges at the Hague should have the same power to annul a law passed by Parliament or Congress as our Supreme Court has to annul the acts of a State Legislature.

Mr. Borah is not really promoting a practical project that will stand up under analysis.—*Extracts see 10, p. 106.*

## NATIONAL COUNCIL FOR PREVENTION OF WAR

## News Bulletin



HERE is a group that believes that a definite program for outlawry of war should be substituted by the peace forces for the program which we are now pursuing. They declare that we are going in the wrong direction and demand "a complete and radical reorientation of the nations in their international relationships,"—"nothing short of a world revolution" through plucking war completely out of the legal system of civilization.

The absence of "sanctions" is a distinguishing feature of the plan. They maintain that an agreement not to go to war is at least as reliable and trustworthy as an agreement to go to war altruistically in behalf of a nation that is attacked.

The existing World Court does not satisfy them, because it lacks "a definite code of law" and "affirmative jurisdiction"—the power to summon sovereign States before it for breaches of the code.

*Continued on next page*

## Pro—continued

## THE WORLD—continued

World Court, has himself approved the principle of the Borah resolution. Only partisanship and political intrigue can, therefore, make it appear that there is any conflict in theory or in fact between the three parallel, and as we believe interdependent, plans for world peace—the plan to outlaw war, the plan for a Permanent Court of International Justice and the plan for a League of Nations.—*Extracts see 5, p. 106.*

JOHN DEWEY

Author



HE idea to outlaw war was formed before a League of Nations was broached in any way. After the idea was broached it was employed to define the basic indispensable condition of an association of nations: That its foundation be the agreement of adhering nations to make war a public crime and to submit their disputes to adjudication by a court. As long as there was a prospect of such an outcome Mr. Levinson and the friends of his scheme heartily supported Mr. Wilson irrespective of political creed. When Mr. Wilson surrendered his cause, and the Covenant of the League not only tied the League to the iniquities of the Versailles Treaty but failed to outlaw war, the friends of outlawry of war remained faithful to their cause. Part of the plan from the first was the creation of a "judicial substitute for war"—a court to which parties to an international dispute would agree to submit, under the terms of international law making war a crime, their controversies for hearing and decision. To that conception they have adhered without wavering.

At all events we have here the nub of the whole matter. Of course, politics and political methods will long, possibly forever, affect the international relations of states. What the proposition to outlaw war calls attention to is the radical difference between the present status of international politics, assuming as it does the legality of war and using a diplomacy based upon that legality, and the conduct of international politics when war is a public crime. To many of us it is a "tragic futility" to expect that the present European political system, based, as it is, upon the tradition of war and the enmities accompanying it, will eliminate war or greatly reduce its probabilities. For that international system was born and bred in the briar-path of war. It is bound up with it and with the threat of force at every point. The present state of Europe, wherever we look, confirms this statement. Until war is outlawed and a judicial substitute for it is provided, it is hopeless to propose American participation in that system. The American public may be very ignorant about international affairs, but it knows enough to know that entanglement in that system means entanglement in a war system. In my judgment it is also intelligent and generous enough to engage in international association when international politics are cut loose from war and the threat of force. When war is outlawed, the politics of international relations will be liberated to pursue a normal development. The obvious policy of the friends of internationalism and of a genuine association of nations is for them to work for the outlawry of war instead of opposing it as a rival to the association of nations.—*Extracts, see 14, p. 106.*

## Con—continued

## NATIONAL COUNCIL FOR PREVENTION OF WAR—continued

The "Optional Clause" of the World Court statute, which provides for compulsory arbitration of legal disputes, they find fraught with "grave dangers" for the larger nations.

The League of Nations they accept as measurably successful except as "a technique for abolishing war." The fact that the League provides for an economic boycott of a nation that breaks the Covenant and that the Council of the League may recommend military measures if the boycott fails, seems to them to incorporate war into the structure of the League itself and it is on the basis of these provisions that the League is characterized as a "politico-military alliance."

The whole peace movement wants to outlaw war, but what of this program for the outlawry of war, to begin with a campaign for the Borah resolution and to culminate in the setting up of the new court followed by reduction of armaments "by natural processes"?

We think that the peace forces are pretty well joined now except for this devoted little band of "outlaws." Should the rest of us abandon our evolutionary program and all unite in advocating the program above outlined?

Our answer is that the program, as a program, is academic and unreal. It scoffs at the progress that has been made. It would ignore existing realities. It calls truly for a "world revolution."

The magnitude of the mass that has to be moved to permit any change in human thinking or human procedure makes step-by-step progress the only thing possible. Education through a generation can achieve wonders. It is on this fact that we base our hope to prevent another world war. But the League of Nations and the World Court are educating the world toward the outlawry of war. This program offers a theoretical and less effective method.

The factors which are criticized so sharply and sometimes justly in the League of Nations are the very factors, which, if operative, would render this program impracticable. Its success relies upon nations whose "unconscionable demands" and provocative interference with sovereignty they fear if they were protected by compulsory arbitration treaties. If they are as bad as that, what might they not do when war is outlawed.

They seek to escape this dilemma by the transfer of responsibility for outlawry of war from the governments to the peoples; but the peoples of Italy, Russia, England and France are controlling the policies of their respective nations today about as much as they will tomorrow.

More education, and a more general education, in the science of international relations is needed. The possibilities that lie in diplomacy, conciliation, arbitration conference and judicial procedure need to become better and far more widely known. Nationalism needs to become less narrow, militarism less arrogant, imperialism less greedy and less ignorant of the consequences of its deeds. Traditional hatreds need to be overcome and international understanding and goodwill cultivated in their place. In other words, the peace education that is required if we are to abolish war and hold what we get, is much broader than the Levinson-Borah program. It cannot be gained theoretically. It is acquired only as we struggle with one problem at a time.—*Extracts see 6, p. 106.*

# The 70th Congress

Duration of the 70th Congress, March 4, 1927-March 4, 1929  
First, or "Long" Session, Convened December 5, 1927. In Session.

## In the Senate

### Membership

Total—96

47 Republicans      47 Democrats  
1 Farmer-Labor  
2 Vacancies

### Presiding Officer

President: Charles G. Dawes, R.  
Vice-President of the United States  
Floor Leaders

### Majority Leader

Charles Curtis, Kansas, R.

### Minority Leader

Joseph T. Robinson, Ark., D.

## In the House

### Membership

Total—435

237 Republicans      195 Democrats  
2 Farmer-Labor  
1 Socialist

### Presiding Officer

Speaker: Nicholas Longworth, R.  
Member of the House from Ohio  
Floor Leaders

### Majority Leader

John Q. Tilson, Conn., R.

### Minority Leader

Finis J. Garrett, Tenn., D.

## Action Taken by Congress

### A Daily Summary of the Proceedings of the House and Senate

January 21, 1928, to February 19, 1928

*Note*—This department contains a record of action on the floor of the House and the Senate. By following it from month to month the reader obtains a compact but complete review of the work actually done by Congress throughout the session. The principal abbreviations used are the following: H. R. means House bill; H. Res. means House Resolution; H. J. Res. means House Joint Resolution; H. Con. Res. means House Concurrent Resolution; S. means Senate Bill; S. Res., Senate Resolution; S. J. Res., Senate Joint Resolution, and S. Con. Res., Senate Concurrent Resolution. If reference is made to the consideration or action by the Senate of a House bill or resolution, it means that the House has passed it and sent it to the Senate, and vice versa.

### Saturday, January 21, 1928

Neither House in session.

### Monday, January 23, 1928

#### Senate:

Mr. Swanson, Va., D., spoke on the force and effect of the Fourteenth and Fifteenth amendments to the Constitution of the United States. He was questioned by Messrs. Shortridge, Borah, Watson, Bruce, Smith, Glass and others.

Mr. Heflin, Ala., D., spoke on alleged Mexican propaganda.  
Executive session.  
Recessed.

#### House:

Tributes paid to the late Maj. Gen. George W. Goethals, U. S. A., by Mr. Tilson, Conn., R., and Mr. Denison, Ill., R.  
Discussed Muscle Shoals legislation—Messrs. Garrett, Garner, Madden and Blanton.

Resumed consideration of H. R. 9481, the Independent Offices Appropriation Bill.  
Adjourned.

### Tuesday, January 24, 1928

#### Senate:

Resumed consideration of S. 744, to further develop an American merchant marine.

Mr. Hale, Maine, R., asked unanimous consent for the consideration of H. J. Res. 131, providing for the appointment by the President of a commission to investigate the sinking of the Naval Submarine S-4. Objection made by Mr. Swanson, Va., D.  
Passed, under unanimous consent, H. R. 9022, authorizing the town of Alderson, W. Va., to construct a highway through the premises of the Federal Industrial Institution for Women, Alderson.

Agreed to S. Res. 118, authorizing the President of the Senate, on the request of any Senate Committee, to issue commissions to take testimony.

Mr. Heflin spoke on alleged Mexican propaganda.  
Executive session.  
Adjourned.

#### House:

Agreed to a number of resolutions making appropriation for the relief of families of House employees who had passed away since the 69th Congress adjourned.

Resumed consideration of H. R. 9481, the Independent Offices Appropriation Bill, and agreed to an amendment to the bill adding \$1,400,000 to the Shipping Board appropriation for converting 10 cargo vessels for carrying American coal to West Indian, Central American and Mediterranean ports.  
Adjourned.

### Wednesday, January 25, 1928

#### Senate:

Passed, under unanimous consent, a number of bills authorizing the construction of bridges.

Discussed sinking of naval submarine S-4 and foreign relations—Messrs. Bingham, Hale, Swanson, Reed (Mo.), Shortridge and Blaine.

Mr. Blease, S. C., D., spoke on historical phases of the Civil War.

The Senate received the Hon. William T. Cosgrove, President of the Irish Free State, who addressed the Senate.

Resumed consideration of S. 744, to further develop an American merchant marine.

Executive session.  
Recessed.

#### House:

Calendar Wednesday.

Passed H. R. 9024, authorizing the appointment of stenographers in the courts of the United States and fixing their salaries.

Passed H. R. 5623, known as "The Declaratory Judgment Bill," amending the Federal Judicial Code.

Passed H. R. 7224, to extend the time for refunding certain legacy taxes erroneously collected.

Passed H. J. Res. 58, directing the Comptroller General of the United States to correct an error made in the adjustment of the account between the State of New York and the United States.



Passed S. 1798, concerning actions on the death or personal injury within places under the exclusive jurisdiction of the United States.

Passed S. 1801, providing that writs of error in civil and criminal cases be abolished.

Passed H. R. 9142, changing the time of holding Federal Court in El Dorado and Harrison, Ark.

Recessed to receive the Hon. William T. Cosgrove, President of the Irish Free State, who presented to the House a communication which was read from the Speaker's desk.

Adjourned.

#### Thursday, January 26, 1928

##### Senate:

Resumed consideration of S. 744, to further develop an American merchant marine. Adopted Committee on Commerce amendments providing that no present Government owned merchant ship shall be sold without a unanimous vote of the Shipping Board and that no merchant vessel constructed by the Government hereafter shall be sold without the consent of Congress.

Adjourned.

##### House:

Mr. Tillman, Ark., D., spoke on pending bills to prevent the distribution of obscene literature.

Passed, under unanimous consent, H. R. 9202, providing for the erection of a new mess hall at the United States Military Academy, West Point, N. Y.

Passed H. R. 6990, for the construction of barracks at the Pacific Branch, United States Soldiers' Home, Los Angeles county, California.

Passed H. R. 7473, providing for the construction of military posts.

Passed H. R. 8281, providing for the withdrawal of lands in Nevada for the use of the Indians of the Walker Reservation.

Passed H. R. 8282, for the permanent withdrawal of certain lands bordering on Summit Lake, Nevada, for use of the Paiute, Shoshone and other Indians.

Passed H. R. 8292, providing for the reservation of 120 acres of land near Koosharem, Utah, for the benefit of the Koosharem band of Indians.

Passed H. J. Res. 156, authorizing the President to appoint delegates to the Eighth International Dairy Congress in Great Britain June-July, 1928, and appropriating \$10,000 for the expenses of the delegates.

Passed H. R. 6466, granting a part of the Federal Building site at Phoenix, Ariz., to the city of Phoenix for street purposes.

Passed H. R. 7472, granting to the town of Cicero, Ill., an easement over certain Government property.

Passed H. R. 8744, accepting the cessation by the State of Colorado of exclusive jurisdiction over the lands embraced within the Mesa Verde National Park.

Passed H. R. 9676, authorizing appropriations of \$310,000 for new buildings at Walter Reed General Hospital, Washington, D. C.

Passed S. J. Res. 38, giving consent to an amendment to the Constitution of the State of New Mexico providing a method for executing leases on mineral lands.

Passed H. R. 204, authorizing an additional appropriation of \$81,678 for the restoration of Fort McHenry, Md.

Passed H. R. 248, authorizing appropriation for disposition of the remains of military personnel and civilian employees of the Army.

#### Friday, January 27, 1928

##### Senate:

Agreed to S. Res. 110, as amended, requesting the Secretary of the Treasury to furnish the Senate a list by States of the names of people to whom taxes were refunded in amounts of \$25,000 or more in the last refund of taxes made.

Passed H. J. Res. 81, authorizing the Secretary of Agriculture to co-operate with the South Carolina Agricultural Experiment Station.

Amended and passed H. J. Res. 131, to provide for a joint committee of three members of the House and three members of the Senate to investigate the sinking of the submarine S-4.

Resumed consideration of Merchant Marine bill.

Adopted resolution calling on the Shipping Board to report to the Senate the facts connected with the proposal of the Transoceanic Corporation with respect to the construction of fast passenger vessels.

Reached a unanimous consent agreement that after 5 o'clock on Monday, January 30, debate on Merchant Marine bill would be limited to five-minute speeches.

Executive session.

Adjourned to meet January 30.

##### House:

House not in session.

#### Monday, January 30, 1928

##### Senate:

Resumed consideration of the Merchant Marine bill.

Passed several bridge bills.

Recessed.

##### House:

Began consideration of H. R. 9285, to provide for settlement of claims against the United States on account of property damage, personal injury or death.

Adjourned.

#### Tuesday, January 31, 1928

##### Senate:

Passed by a vote of 53 to 31 S. 744, to further develop the merchant marine, to insure its permanence in the transportation of the foreign trade of the United States, and for other purposes.

Passed under unanimous consent S. 7100, authorizing the Secretary of the Interior to execute an agreement for irrigation and drainage of Pueblo Indian lands in the Rio Grande Valley, N. M.

Passed H. R. 9142, changing time of holding court at El Dorado and Harrison, Ark.

Passed S. 754, for the relief of certain Porto Rican taxpayers.

Executive session.

Adjourned.

##### House:

Began consideration of H. R. 10268, the War Department appropriation bill.

Mr. W. E. Hull, Ill., R., and Mr. Garrett, Tenn., D., spoke on flood control.

Mr. Frothingham, Mass., R., spoke on the use of submarines and warfare.

Mr. Browne, Wis., R., spoke on H. R. 10142, to create a special highway fund from the proceeds of the sale of surplus war material.

Mr. McKeown, Okla., D., spoke on an embargo upon the sale of war materials, arms and munitions.

Mr. Combs, Mo., D., and Mr. Gibson, Vt., R., spoke on the Nicaraguan situation.

Mr. Gifford, Mass., R., spoke on question of changing the date of meeting of Congress.

Adjourned.

#### Wednesday, February 1, 1928

##### Senate:

Passed, under unanimous consent, S. 2752, to create a new judicial district in the State of Indiana.

Passed S. 1154, authorizing the Secretary of the Interior to lease to the county of Yuma, Arizona, a tract of land for a municipal aviation field.

Began consideration of H. R. 9481, the Independent Offices appropriation bill.

Mr. Johnson, Cal., R., and Mr. Copeland, N. Y., D., spoke on the strike in the coal fields of Pennsylvania, West Virginia and Ohio.

Mr. Norris, Neb., R., spoke on Muscle Shoals.

Passed, under unanimous consent, S. 2594, transferring a portion of the Lighthouse reservation, Ship Island, Miss., to the control of the War Department.

Recessed.

##### House:

Passed H. R. 6491, making it possible for a maximum of three banks to have interlocking directorates if not in substantial competition with each other.

Discussed H. R. 4, providing for a Federal Reserve retirement fund.

Adjourned.

#### Thursday, February 2, 1928

##### Senate:

Resumed consideration of H. R. 9481, the Independent Offices bill.

Executive session.

By unanimous consent the injunction of secrecy was removed from the vote of confirmation of the members of the Federal Farm Loan Board, and it was announced that by a vote of 60 to 21 George R. Cooksey, Floyd R. Harrison and Eugene Meyer were confirmed as members of the board.

Open session resumed.

Agreed to H. J. Res. 112, extending the provisions of the law preventing the exportation of diseased livestock to include live poultry.

Agreed to S. Res. 79, authorizing the Senate Committee on Indian Affairs to make a general survey of the condition of the Indians at an expense not to exceed \$30,000.

Passed S. 2301, appointing a Congressional commission to consider plans for enlarging the Capitol grounds.

Recessed.

#### House:

Resumed consideration of H. R. 10286, the War Department appropriation bill.

Mr. Lozier, Mo., D., spoke on the national debt.

Mr. La Guardia, N. Y., R., spoke on alleged wholesale importations of liquor.

Disagreed to Senate amendments to H. J. Res. 131, providing for a commission to investigate the sinking of the submarine S-4 and agreed to ask for a conference. Appointed conferees for the House: Messrs. Snell, N. Y., R.; Burton, O., R.; Pou, N. C., D.

Adjourned.

### Friday, February 3, 1928

#### Senate:

Passed, with amendments, H. R. 9481, the Independent Offices bill.

Agreed to insist on the Senate amendment to H. J. Res. 131, appointing a committee to investigate the sinking of the submarine S-4, and the Vice-President appointed as Senate conferees Messrs. Hale, Maine, R.; Oddie, Nev., R., and Swanson, Va., D.

Began consideration of H. R. 9136, the Department of the Interior appropriation bill.

Agreed to S. Res. 32, directing the president of the Senate to issue a warrant for the arrest of Robert W. Stewart for refusing to testify before a Senate Committee investigating oil leases.

Recessed.

#### House:

Resumed consideration of H. R. 10286, the War Department appropriation bill.

Adjourned to meet February 6, 1928.

### Saturday, February 4, 1928

#### Senate:

The Sergeant at Arms announced that under the instructions of the Senate Robert W. Stewart had been taken into the custody of the Senate and had obtained a writ of Habeas Corpus returnable Tuesday, February 7.

Agreed under unanimous consent to S. Res. 133, authorizing the Committee on Public Lands and Surveys to employ council at a cost not to exceed \$2500 to represent the Senate in proceedings taken by Robert W. Stewart.

Passed, with amendments, H. R. 9136, Department of the Interior appropriation bill.

Executive session.

Adjourned.

#### House:

Not in session.

### Monday, February 6, 1928

#### Senate:

Passed a number of bridge bills.

Passed S. 1532, authorizing the sale of the Mount Wether, Virginia Weather Bureau Station.

Passed S. 1758, to relieve the postmaster at Sheboygan, Wis., in the sum of \$141,433.82 which was taken from the postoffice in a robbery.

Passed S. 789, amending the Merchant Marine Act of 1920, to provide exemption from income taxes the profits on sale of vessels when proceeds of such sales are invested in new American flag tonnage.

Passed a number of other relief and claims bills.

Passed S. 1181, authorizing appropriations for the acquisition of forested, cut-over and denuded areas on the watersheds of navigable streams.

Passed H. R. 273, adding \$100,000,000, to authorizations for public buildings provided for in the public buildings Act of May 25, 1926.

Passed H. R. 6468, granting a part of the Federal building site at Phoenix, Ariz., to that city for street purposes.

Passed H. R. 172, granting the city of Vancouver, Wash., public highway rights over a portion of Vancouver Military reservation.

Passed S. 2310, amending the articles of incorporation of the Catholic University of America, Washington, D. C.

Passed S. 1413, to prohibit predictions with respect to cotton

prices by the Department of Agriculture or the Department of Commerce.

Passed, with amendments, H. R. 7009, authorizing appropriations for construction of buildings at military posts.

Adopted motion that Senate insist on its amendments and ask for a conference. The President pro tempore appointed as Senate conferees Mr. Reed, Pa., R.; Mr. Dale, Vt., R., and Mr. Fletcher, Fla., D.

Passed S. 1665, authorizing the city of San Francisco to construct a recreation pier at the foot of Van Ness avenue.

Passed H. R. 164, for the construction of buildings at Soldier's Home, Los Angeles county, California.

Passed S. 1168, authorizing the Secretary of State to continue the work of editing the official papers relating to the Territories of the United States.

Passed S. 2317, continuing for one year the powers and authority of the Federal Radio Commission.

Executive session.

Adjourned.

#### House:

Disagreed to Senate amendments to H. R. 9481, the independent offices appropriation bill, and asked for conference. The chair appointed as House conferees Messrs. Wood, Ind., R.; Wason, N. H., R., and Cullen, N. Y., D.

Passed H. R. 7030, amending the Federal code to cover surety bonds furnished by postal officers and employers.

Passed H. R. 359, authorizing the presentation of the iron gates between the White House and the State Department to the Ohio State Archeological and Historical Society for memorial gateways into the Spiegel Grove State Park.

Passed, with amendments, H. R. 5783, granting extensions of time of oil and gas permits.

Passed a number of bridge bills.

Passed H. R. 5686, granting a right of way over certain public lands in the county of Imperial, Cal., for highway purposes.

Passed H. R. 9567, authorizing an appropriation of \$120,000 for construction at Fort Leavenworth, Kan.

Passed H. R. 445, authorizing the Secretary of the Interior to enter into a co-operative agreement with the State of Montana for the development of grazing lands.

Passed H. R. 5603, authorizing members of the Civil Service Commission to administer oaths of office.

Passed H. R. 7013, directing the Secretary of War to lend the Governor of Arkansas coats and bedding for use at the encampment of the United Confederate Veterans to be held at Little Rock in May, 1928.

Passed H. R. 8309, making punishable by fine or imprisonment the wearing, manufacturing or sale of medals and badges awarded by the War Department except when authorized under regulations prescribed by the Secretary of War.

Passed H. R. 391, regulating the use of the Capitol Building and Grounds.

Passed H. R. 6684, making regulations for the sale of isolated tracts of public lands.

Passed, under suspension of rules, H. R. 6104, increasing fees in the copyright office of the Library of Congress, from \$1 to \$2 for all published work and increasing the cost of copyright catalogues.

Received a message from the Senate announcing the appointment of Messrs. Warren, Wyo., R.; Smoot, Utah, R.; Jones, Wash., R.; Overman, N. C., D., and Glass, Va., D., as Senate conferees on H. R. 9481, the Independent Offices appropriation bill.

Adjourned.

### Tuesday, February 7, 1928

#### Senate:

Concurred in House amendment to S. 700, providing for flood control and irrigation in the lands of the Pueblo Indians and the Rio Grande Valley, N. M.

Adopted a motion to name Mr. Hayden, Ariz., D., as conferee in place of Mr. Glass, Va., D., on the Interior Department Appropriation bill.

Discussed question of third term of President, Messrs. La Follette, Bingham, Ashurst, Gillett, Watson, Borah, Norris.

Executive session.

Adjourned.

#### House:

Passed H. R. 10636, making an additional appropriation for survey of water boundary between the United States and Mexico.

Disagreed to Senate amendments to H. R. 278, for the construction of public buildings, and asked for conference.

Messrs. Elliott, Ind., R.; Taylor, Tenn., R., and Lanham, Texas, D., were appointed House conferees.

Resumed consideration of H. R. 10286, War Department Appropriation bill.

Agreed to conference report on H. R. 8260, with Senate amendments, the State Justice Judiciary Commerce and Labor appropriation bill.

Adopted a resolution sending back to the Senate S. 780, providing that persons selling vessels documented under the law of the United States and built prior to January 1, 1914, shall be exempt from income taxes on the proceeds of such sale, on the ground that this bill, as a revenue raising measure, is an infringement on the privileges of the House.

Adjourned.

### Wednesday, February 8, 1928

#### Senate:

Passed S. 2906, authorizing the Secretary of the Treasury to prepare a medal with appropriate emblems and inscriptions commemorative of the achievements of Col. Charles A. Lindbergh, the medals to be sold at the Mint in Philadelphia and the proceeds of the sale to be used to reimburse the Mint for the cost of the medals.

Passed S. J. Res. 62, providing for the co-operation of the United States in the Pacific Southwest Exposition, to be held at Long Beach, Cal., in 1928.

Ordered that the treaty between the United States and France signed on February 6 be made public.

Passed H. R. 10636, making additional appropriations for the water boundary between the United States and Mexico.

Discussed finances of the Alaskan Railroad. Messrs. Howell, Norris, Smoot, Shortridge, Willis, Overman and Walsh of Montana.

Reconsidered Interior Department appropriation bill, rejected amendments offered by Mr. Howell, Neb., R., to cut down appropriations for the Alaska Railroad, and repassed the bill.

Passed S. J. Res. 5, to grant preference to wives and minor children within the quotas, in the issuance of immigration visas.

Executive session.

Adjourned.

#### House:

Disagreed to Senate amendments to H. R. 7000, authorizing appropriations for buildings at military posts and asked for a conference. Messrs. Morin, Pa., R.; James, Mich., R., and McSwain, S. C., D., were appointed House conferees.

Mr. Casey, Penn., D., and Mr. La Guardia, N. Y., R., addressed the House on the strike in the bituminous coal fields of Pennsylvania, Ohio and West Virginia.

Resumed consideration of H. R. 10286, the War Department appropriation bill.

Disagreed to Senate amendments to H. R. 9136, the Interior Department appropriation bill, and asked for a conference. Messrs. Crampton, Mich., R.; Murphy, O., R., and Taylor, Col., D., appointed House conferees.

Agreed to Senate amendments to several bridge bills.

Adjourned.

### Thursday, February 9, 1928

#### Senate:

Agreed to insist on Senate amendments to H. R. 9136, the Interior Department appropriation bill. Messrs. Smoot, Utah, R.; Curtis, Kan., R., and Harris, Ga., D., appointed Senate conferees.

Mr. Deneen, Ill., R., reported from the committee on audit and control of the contingent expenses of the Senate, with amendments, S. Res. 83, by Mr. Walsh of Montana, to appoint a committee of five members of the Senate to investigate utilities corporations.

Mr. Walsh asked and obtained unanimous consent that the resolution be taken up after the morning hour on Monday, February 13.

Agreed to conference report on H. R. 278, increasing appropriations for public buildings.

Passed H. R. 7013, directing the Secretary of War to lend cots and bedding to the Governor of Arkansas for use at the encampment of the United Confederate Veterans, to be held at Little Rock, in May, 1928.

Agreed to S. Con. Res. 10, offered by Mr. Robinson, Ark., D., requesting the Interstate Commerce Commission to transmit to Congress on or before April 15, 1928, copies of all decisions handed down by it for six years preceding April 1, 1928, in

which its decisions were influenced by competitive advantage of one section over another with citations of sections of the Interstate Commerce Act or other acts under which the Commission believes it was granted authority to equalize prosperity among producers of commodities.

Discussed S. Res. 112, by Mr. La Follette, Wis., R., on a third term for President. Messrs. La Follette, Wis., R.; Shortridge, Borah, Fess, Bruce, Caraway, Robinson, Ark.; Reed, Mo.; Heflin.

Passed S. 2656, fixing 327,000 acres as the minimum required for the Shenandoah National Park, Va.

Passed several bridge bills.

Executive session.

Recess.

#### House:

Resumed consideration of H. R. 10286, the War Department Appropriation bill. Messrs. Huddleston, Ala., D.; Newton, Minn., R.; Franch, Ind., R.; Moore, Va., D., discussed the war powers of the executive and legislative branches of the Government.

Passed the War Department appropriation bill, except for several amendments to be voted on separately.

Adjourned.

### Friday, February 10, 1928

#### Senate:

Resumed consideration of S. Res. 128, on third terms for Presidents.

Recessed for 10 minutes to receive Lieut. Com. Joseph Lebriz and Lieut. Dieudonné Costes, French aviators.

Refused by a vote of 52 to 27 to refer S. Res. 128 to the Committee on the Judiciary.

Agreed to S. Res. 112, modified, by a vote of 56 to 26.

Began consideration of the H. R. 7201, the Allen Property bill.

Passed several bridge bills.

Executive session.

Adjourned to Monday, February 13.

#### House:

Agreed to conference report on H. R. 2781, making appropriations for the construction of public buildings.

Passed, by separate vote, amendments to Army appropriation bill and passed the bill.

Passed S. 2656, establishing a minimum acreage for the Shenandoah National Park, Va.

Began consideration of H. R. 10635, the Treasury and Postoffice Department appropriation bill.

Adjourned to meet Monday, February 13.

### Saturday, February 11, 1928

Neither House in session.

### Monday, February 13, 1928

#### Senate:

Tribute to Abraham Lincoln paid by Messrs. Smoot, Robinson, Ark.; Heflin, Brookhart.

Passed several bridge and claims bills.

Discussed proposed changes in Senate rules to require the registration of legislative counsel or agents, Messrs. Walsh, Mass.; Norris, Caraway.

Began consideration of and held general debate on S. Res. 83 for the appointment of a committee of five Senators to investigate public utilities corporations.

Recessed.

#### House:

Resumed debate on H. R. 10625, the Treasury and Postoffice Department Appropriation bill.

Adjourned.

### Tuesday, February 14, 1928

#### Senate:

Passed several bridge bills.

Resumed debate on S. Res. 83, for the appointment of a committee of five Senators to investigate public utility corporations.

Executive session.

Recess.

#### House:

Agreed to conference report on H. R. 7000, authorizing construction at military posts.

Resumed debate on H. R. 10635, the Treasury and Postoffice appropriation bill.

Adjourned.

Continued on page 106



## Paragraph News of National Issues

### Compendium of Important Legislation Before the Seventieth Congress

*Status as of February 20*

#### *Aeronautics*

**Army and Navy.**—Development of Army and Navy Aviation was provided for in a comprehensive program laid down by the 69th Congress and the carrying out of this program is provided for annually in the regular appropriation bills. No changes have been made or are contemplated at this session in the general legislation except concerning the Aircraft Procurement Board.

The House on January 16 passed a bill providing for an Aircraft Procurement Board, consisting of representatives of the various executive departments using aircraft. The duty of the board would be the consideration and co-ordination of all plans for the procurement of aircraft, aircraft engines and accessories. The proposal is now pending in the Military Affairs Committee of the Senate.

**Civil.**—Regulation and advancement of commercial aviation are dealt with in a number of bills introduced in the present Congress. The expansion of the air mail service, operated by private enterprises under contract with the Post Office Department, has been recommended. Increased appropriations for lighting airways have been recommended by President Coolidge and are included in the appropriation bill for the State, Justice, Commerce and Labor Departments. A goal of 1000 miles of lighted airways by the end of the fiscal year ending June 30, 1929, has been set in these proposals.

Establishment of an international air mail service between United States and the Pan-American countries was advised by Postmaster General Harry S. New, appearing before the House Committee on Post Offices and Post Roads.

The Department of Commerce appropriation bill carried appropriations of \$4,361,850 for use by the Department in the promotion of Commercial Aviation, of which \$702,000 is for aircraft in commerce and \$3,659,850 for air navigation. The former amount is to cover research work, regulation, licensing, inspection, mechanical work and other administrative work the Department carries on. The latter is for extending and lighting airways and assisting in the general development of commercial aviation along established routes.

#### *Agriculture*

Measures for farm relief are expected by their proponents to be before both Houses of Congress early in March. The Senate Committee on Agriculture and Forestry completed its hearings on this subject early in February and on February 15 authorized Senator McNary, Oreg., R., chairman of the committee to report his bill (S. 1176) with committee amendments. On February 20, Mr. McNary was still engaged in the preparation of his report.

On February 20 hearings by the House Committee on Agriculture on the Haugen bill (H. R. 7940) were continuing with the prospect of being completed by the end of the month. At the conclusion of the hearings the committee will immediately begin to draft its report of a bill.

Both the McNary and the Haugen bills are expected to contain modifications of some of the provisions they carried in the 69th Congress. Various amendments to both bills will be offered on the floor of each house when the bills come up for consideration.

The Capper-Ketcham bill for increased appropriations for county extension work has been reported by House and Sen-

ate Committees but has not been acted upon by either House.

The Capper-French "Truth in Fabrics Bill," is before the Senate Committee on Manufactures, which reported it last session, and the House Committee on Interstate and Foreign Commerce.

Standard Containers Bill, providing for standard baskets, crates, etc., for fruits and vegetables, has been reported by the Senate Committee on Agriculture. In the House their bill is before the Committee on Coinage, weights and measures.

Requests have been made of the House Committee on Appropriations by farm organizations for an additional \$5,000,000 to the Department of Agriculture Appropriation bill for fundamental research into farm problems such as plant diseases, insect pests and planting methods. In support of their request the farm interests state that fundamental research work has been neglected in recent years and should be revived.

The House Committee on Agriculture on January 20 reported H. R. 7459 introduced by Mr. Morgan, Ohio, R., authorizing the Department of Agriculture to spend the residue from excess profits left over from the War Industries Board on the work of further standardizing wool. This residue amounts to several hundred thousand dollars.

#### *Alien Property*

The Alien Property Bill (H. R. 7201), which was passed by the House on December 20, was passed by the Senate on February 20. It provides for the payment of claims of American Nationals against Germany and for the payment of claims of Germans, Austrians and Hungarians for property seized by the American Government during the World War. (See CONGRESSIONAL DIGEST, December, 1926.)

#### *Appropriations*

On February 20, seven of the annual supply bills had been reported by the House Committee on Appropriations; six had been passed by the House; four had been passed by both the House and Senate and sent to conference and two had been received and signed by the President.

The First Deficiency Bill, 1928, carrying an appropriation of \$200,936,668, and the State, Justice and Commerce and Labor Appropriation Bill, carrying \$89,820,597, have been signed by the President.

The Interior Department Appropriation Bill, carrying \$272,865,039, and the Independent Offices Appropriation Bill, carrying \$527,672,485 had passed both Houses, with amendments, and were in conference.

The War Department Appropriation Bill carrying \$396,741,579, and the Treasury and Post Office Appropriation Bill, carrying \$1,061,342,060 had passed the House and been sent to the Senate.

The District of Columbia Appropriation Bill carrying \$37,035,235 was reported to the House from the Committee on Appropriations on February 17.

The total amount carried by these bills in their status, as given above, is \$2,586,413,663.

#### *Banking*

The power of States to tax national bank shares has been limited for over sixty years by a provision of the National

Banking Act that the rate or burden of tax imposed upon such shares shall not be greater than the taxing State imposes upon other moneyed capital "in the hands of individual citizens." Amendments changing the limitation so that the tax on national banks shall be equivalent to that imposed on State banks or other capital used in the business of banking have been passed by the House and have been referred to the Senate Committee on Banking and Currency. Hearings on the bill of Senator Norbeck, S. D., R., for the same purpose, began on February 23. Opposition is based on the assertion that the amendment would permit unfair discrimination in taxation of banks as compared with other businesses handling moneyed capital.

On February 1, the House passed H. R. 6491, by Mr. McFadden, Pa., R., making it possible for a maximum of three banks to have interlocking directorates if not in substantial competition with each other. The McFadden bill for the retirement of Federal Reserve employees has been reported to the House and is on the Unanimous Consent Calendar.

Several bills have been introduced in the Senate providing for a retirement fund for officers and employees of banks in the Federal Reserve System but have not been reported out. (See CONGRESSIONAL DIGEST, March, 1926.)

#### **Boulder Dam**

Hearings on the Swing bill, proposing flood control, water storage, irrigation and power development by the Federal Government through the erection of a dam at Boulder Canyon on the Colorado River, for which \$125,000,000 has been asked, were held during January before the House Committee on Reclamation and Irrigation. The States of Utah, Colorado, New Mexico and Wyoming urged delay in legislation concerning the Boulder Dam or other Colorado River projects. The delay would permit the seven interested States to reach an agreement on all phases of the problem. The other States concerned in the project are California, Nevada and Arizona.

Opposition to the project has also been expressed by the United States Chamber of Commerce and the American Engineering Council on the ground that it involves Federal ownership and sale of power. The likelihood that the cost of the project would exceed the amount asked has also been declared before the committee.

After the hearings the committee authorized Mr. Swing to report his bill but not before March 15. The object of the delay is to permit the interested States further time in which to iron out their differences.

The Swing bill is virtually unchanged from the proposal considered in the 69th Congress, which was reported favorably by the committees in both Houses but which did not reach a vote before adjournment. (See CONGRESSIONAL DIGEST, February, 1927.)

#### **Child Labor**

The amendment to the Constitution passed in June, 1924, for the protection of children would give to Congress the power to legislate with respect to the work of persons under 18 years of age. To date five States have ratified the amendment, two have rejected it, nine have rejected it in one house of the State legislature, two have postponed indefinitely its consideration and the remaining States have taken no action. Representative Zihlman of Maryland introduced a bill (H. R. 6685) in the House to regulate child labor in the District of Columbia, which has been reported by the Committee on

the District of Columbia. (See CONGRESSIONAL DIGEST, February, 1923.)

#### **Civil Service**

The Senate Committee on Civil Service has agreed to report the bill of Senator Dale, Vt., R., and the House Committee has agreed to report the bill of Mr. Lehlbach, N. J., R., for civil service retirement. Both committees on February 20, were awaiting figures from the Treasury Department as to the cost of carrying out the provisions of the bill.

The Senate Committee has also agreed to report Senator Dale's bill placing under the classified service postmasters promoted from the ranks, and his bill extending the Civil Service to postmasters of the third class. Following its action on the Lehlbach retirement bill the House Committee is expected to begin considering the bill of Representative Welsh, Pa., R., to standardize Government salaries.

#### **Coal**

Following the adoption by the Senate on February 16 of S. Res. 105, by Mr. Johnson, Calif., R., for an investigation by the Senate Committee on Interstate Commerce of the coal strike in Ohio, Pennsylvania and West Virginia a subcommittee of five members of that committee was appointed to undertake the work. The members of the subcommittee are Messrs. Gooding, Idaho, Metcalif, R. I., and Pine, Okla., Republicans; and Wheeler, Mont., and Wagner, N. Y., Democrats. The subcommittee was scheduled to leave Washington on February 21 for a trip through the coal fields. Upon return of the subcommittee to Washington a meeting of the Committee on Interstate Commerce will be held to determine whether to hold hearings.

#### **Copyright**

The House, on February 6, passed, under suspension of the rules, H. R. 6104, increasing registration fees in the Copyright Office from \$1 to \$2 for all published work and increasing to \$1 the cost of copyright catalogues.

Bills for amending the copyright laws and authorizing the United States to join the International Copyright Union are still pending in the House Committee on Patents. (See CONGRESSIONAL DIGEST, October, 1927.)

#### **District of Columbia**

Hearings have been held by the Senate Committee on the District of Columbia and the Judiciary Committee of the House on Joint Resolutions for an amendment to the Constitution of the United States providing suffrage for the District of Columbia. The annual appropriation bill for the District of Columbia, carrying \$37,935,235 was reported to the House on February 17. The bill carrying \$25,000,000 for the purchase of sites for new public buildings in the District has been passed by both Houses.

#### **Flood Control**

On February 16 the House Committee on Flood Control reported the bill of Mr. Reid, Ill., R., chairman of the committee (H. R. 8219) carrying an authorization of \$743,000,000 for a flood control program for the Lower Mississippi Valley, the entire expense to be borne by the Federal Government. The bill provides, also, for the creation of a Mississippi River Flood Control Commission to be appointed by the President.

The Reid bill is opposed to the plan offered by the Administration through Maj. Gen. Edgar Jadwin, Chief of Army Engineers.

The Senate Committee on Commerce has held hearings on various flood control bills, but has taken no action. (See CONGRESSIONAL DIGEST, February, 1928.)

### *Foreign Affairs*

Various bills and resolutions relating to foreign affairs are before the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, ranging all the way from those to outlaw war (see this number) to bills providing appropriations for participation by the United States in international meetings in all parts of the world. The House Committee has reported the Burton resolution prohibiting the exportation of arms and several bills relating to administrative matters in the foreign service. It has before it the Tinkham resolution requesting the President to call a Third Hague Conference to recodify international law. The Senate Committee on Foreign Relations has before it the Nicaragua treaty and the French arbitration treaty as well as arms embargo, world court resolutions and resolutions covering investments in foreign countries, but has taken no action.

### *Immigration*

The Senate has passed the Copeland resolution, S. J. Res. 5, for the creation of additional preferences within the immigration quotas. The resolution was referred to the House Committee on Immigration and Naturalization.

The Johnson Deportation bill, reported from Committee was, on February 23, on the Calendar of the House awaiting action. On February 21 the House Committee began hearings on the bill of Mr. Box, Texas, D., to extend the quota laws to countries of the Western Hemisphere.

### *Labor*

Several important measures affecting labor are pending in both Houses of Congress. The Cooper-Hawes convict labor bill, which gives States the right to determine whether convict-made goods can be shipped into them is before the House Committee on Labor. Hearings are in progress.

Hearings were being held on the same date by the Senate Committee on the judiciary on the Shipstead-La Guardia bill to eliminate the issuing of injunctions in labor disputes. Mr. Bacon, N. Y., R., has introduced in the House a bill providing that the wages paid for those employed on Federal construction work shall be the same as the prevailing wages for similar State, Government work in the State where the Federal work is being done.

### *Merchant Marine*

The Senate on January 31, 1928, passed the bill introduced by Mr. Jones, Was., R., authorizing the Shipping Board to construct new ships for the Merchant Marine and providing that no Government-owned merchant vessel shall be sold, except by a unanimous vote of the members of the Board. This bill was referred to the House Committee on Merchant Marine and Fisheries. Before that Committee are several House bills. Mr. Wainwright, N. Y., R., has introduced a bill directing the Shipping Board to advertise for sale the United States lines, whose ships are the Leviathan, George Washington, President Roosevelt, President Harding, America and Republic. If no purchasers are found within six months, the bill provides that the Board shall build new ships for this line. Mr. Wood, Ind., R., has introduced a bill providing various aids for private ship owners and for the immediate sale of all useless ships of the Government and the operation of the remainder only until they can be sold. It further provides for the loan of money by the Government at a low rate of interest to private American citizens for the construction of new tonnage to be operated under the American flag. On February 9 Mr. White, Me., R., chairman of

the House Committee on Merchant Marine and Fisheries, introduced a bill, accompanied by a statement in which he described the bill as an alternative for permanent Government ownership. The bill provides that the construction loan fund of the Shipping Board shall be so liberalized that an American citizen or firm can borrow three-fourths of the cost of a ship to be built in an American shipyard at a rate of interest not lower than 2½ per cent; authorizes to let out by contract the operation of essential trade routes; authorizes the Postoffice Department to enter into agreements with American ship owners to carry the mails; creates a Naval reserve in the Merchant Marine and authorizes the Shipping Board to create an insurance fund for the benefit of American ship owners.

Hearings on these bills by the Committee are scheduled to begin early in March.

### *Motor Buses*

Two bills for Federal control of motor bus lines doing interstate business are before the House Committee on Interstate and Foreign Commerce, the Parker bill, dealing with both passenger and freight buses, and the Denison bill, dealing with passenger buses only. The committee has called on the Interstate Commerce Commission for data on this subject and until that is received the committee will take no action.

### *Muscle Shoals*

The Norris resolution, providing for Government control and operation of the Muscle Shoals project, has been favorably reported by the Senate Committee on Agriculture and on February 23 was before the Senate as unfinished business. In the House the Committee on Military Affairs was, on February 23, continuing hearings on the Madden bill, accepting the proposal of the American Cyanamid Corporation for the lease and operation of Muscle Shoals. (See CONGRESSIONAL DIGEST, October, 1922.)

### *National Defense*

The outstanding national defense problem before Congress is the proposed building program for the Navy. All bills relating to this are before the House Committee on Naval Affairs, which has been holding hearings. On February 23 no conclusions had been reached. A number of speeches have been delivered in both Houses of Congress.

### *Norris Amendment*

The Senate, on January 4, passed the Norris resolution, fixing the terms of the President and of Congress. The House Committee on the Judiciary, to which it was referred, substituted for it the resolution of Mr. H. B. White, Kan., R., and reported it to the House. The principal difference between the Norris and White resolutions is that the latter provides that the second session of a Congress shall not continue beyond May 4. (See CONGRESSIONAL DIGEST, September, 1926.)

### *Philippine Independence*

Several bills have been introduced in previous years demanding independence for the Philippines, but no action has been taken on the floor of either House of Congress. Bills have been submitted to this Congress, but none of them have administration backing. (See CONGRESSIONAL DIGEST, April, 1924.)

### *Postal Rates*

A bill to restore the one-cent postal rate on private mailing cards is now before the Committee on Postoffices and Post Roads of both Houses. This bill passed both Houses at the last session and was reported from conference, but failed of passage owing to the filibuster that marked the closing days of the session. (See CONGRESSIONAL DIGEST, February, 1925.)



### Prohibition

No action has been taken on the many bills introduced for the modification, enforcement or repeal of the Eighteenth Amendment by committees in either House of Congress. During consideration by the House of the Treasury Department Appropriation bill on February 14, Mr. Linthicum, Md., D., one of the anti-prohibition leaders in the House, offered an amendment to prohibit the issuance of permits for the removal of any alcohol containing poisonous drugs or other injurious compounds. The Linthicum amendment was defeated by a vote of 167 to 29. (See CONGRESSIONAL DIGEST, October, 1924, and June, 1926.)

### Public Utilities

On February 15 the Senate, by a vote of 46 to 31 adopted the amendment of Mr. George, Ga., D., to the resolution of Mr. Walsh, Mont., D., providing that the investigation of public utilities corporations be made not by a committee of the Senate, as Mr. Walsh proposed, but by the Federal Trade Commission and passed the Walsh resolution thus amended. Under the terms of the George amendment the Federal Trade Commission is required to report to the Senate every 30 days the progress of the work.

### Radio

Interest in radio legislation has centered on bills affecting the Federal Radio Commission, the existence of which ends on March 15 of this year unless it is continued by law. The Senate has passed a bill to this effect. This bill was referred to the House Committee on Merchant Marine and Fisheries and final action on it by both Houses is expected before March 15.

### Railroads

The House Committee on Interstate and Foreign Commerce went into executive session on February 20 to consider the railroad consolidation bills, on which it has held exhaustive hearings. It is expected that the committee will make its report to the House at an early date. (See CONGRESSIONAL DIGEST, March, 1927.)

### Reclamation

On December 12, 1927, Mr. Jones, Wash., R., introduced (S. 1462) in the Senate for the adoption of the Columbia Basin Reclamation Project. The companion bill was introduced in the House on the same day by Mr. Summers, Wash., R. The Senate Committee on Irrigation and Reclamation began its hearings on the Senate bill on January 11.

### Public Health

A sub-committee of the House Committee on Interstate and Foreign Commerce on the Parker bill to co-ordinate all the health services of the various Government agencies had, on February 20, completed a draft of its bill, which draft was approved by the full committee. A report to the House is expected in the near future.

### Reforestation

The McNary-Woodruff bill for the protection of watersheds of navigable streams, and involving the problem of reforestation, provides for the expenditure of \$40,000,000 over a period of eight years. It has been reported favorably by the Senate Committee on Agriculture and Forestry. No action has been taken on the bill introduced by Senator Oddie, R., of Nevada, to promote the protection and continuous production of timber.

The House Committee on Agriculture will take up a similar bill introduced by Mr. McSweeney, D., of Ohio, the last of February. (See also *Inland Waterways* above.)

### St. Lawrence Canal

On January 7 the National Advisory Council for Canada endorsed the project of the joint committee of Canadian and American engineers for the construction of the St. Lawrence Canal. No formal negotiations have been entered into by the United States and Canada. The St. Lawrence Commission of the United States has recommended that the two Governments enter into a treaty on the project. Legislation on this subject will not be considered until diplomatic negotiations are concluded. (See CONGRESSIONAL DIGEST, January, 1927, and January, 1928.)

### Tariff Revision

Downward revision of tariff, designed to place agriculture on a parity with industry, was recommended by Senator McMaster, S. D., R., which was adopted by the Senate on January 16, after a week of debate. The resolution was supported by Senators from the agricultural States of the Central Northwest and by the Democrats. The resolution was sent to the House, where revenue legislation must originate, and referred to the Committee on Ways and Means. A number of tariff bills are awaiting consideration by that committee. The President has declared himself opposed to tariff reduction. (See CONGRESSIONAL DIGEST, January, 1928.)

### Taxation

The tax bill, passed by the House, December 15, 1927, is still before the Senate Committee on Finance. No indication has been given as to when it will be reported.

(For a survey of principles of taxation and tax legislation of recent years, see the CONGRESSIONAL DIGEST, September, 1923; December, 1924; December, 1925, and January, 1928.)

### Veterans

The House Committee on War Veterans' Legislation began sessions on February 27 to consider all pending measures involving war veterans. Sub-committees have been holding hearings since early in January and their findings were presented to the full committee at these sessions. Of major interest to the veterans are bills amending the basic law creating the Veterans' Bureau; the Luce bill for \$16,000,000 for hospital construction, hospitals to be located as near as possible to centers of disabled military population; bills providing for home treatment of disabled veterans; the reopening of veterans' insurance; the apportionment of compensation between husband and wife; the transfer of the National Homes for Volunteer Soldiers to the control of the Veterans' Bureau and hospitalization for women. Until the committee makes its report the fate of all this legislation is problematical. Bills covering all the above questions are pending in the Senate, but the veterans' organizations expect the Senate to await House action.

### Third Term

The Senate, by a vote of 55 to 26, adopted on February 10 the resolution of Senator La Follette, Wis., R., declaring it to be "the sense of the Senate" that the precedent established by George Washington and other Presidents of the United States after their second Presidential term "has become a part of our republican system of government" and that any departure from this custom would be "unwise, unpatriotic and fraught with peril to our free institutions."

### Women's Equal Rights Amendment

Senator Curtis has reintroduced his joint resolution (S. J. Res. 64), providing for a Constitutional amendment giving men and women equal rights. The resolution was referred to a sub-committee of the Senate Judiciary Committee, but no action has thus far been taken this session. (See CONGRESSIONAL DIGEST, March, 1924.)

# EXECUTIVE DEPARTMENT

## The White House Calendar

January 20 to February 20

### Addresses

*January 30*—An address of President Coolidge at the fourteenth regular meeting of the business organization of the Government at Memorial Continental Hall, Washington, D. C.

*February 4*—An address of President Coolidge at the dedication of the new building of the National Press Club, Washington, D. C.

### Appointments

*January 23*—Charles A. Dewey of Iowa, to be United States District Judge, southern district of Iowa.

*January 23*—Seth W. Richardson of N. D., to be United States Attorney, district of North Dakota. (Reappointment.)

*January 25*—Guy Francis Barnes of S. D., to be Register of Land Office at Pierre, S. D.

*January 25*—Fred S. Hird of Iowa, to be United States Marshal, southern district of Iowa.

*January 24*—Andrew J. Russell of Ft. Smith, Ark., to be Collector of Internal Revenue for the district of Arkansas in place of Harmons L. Remmel, deceased.

*January 27*—Hugh S. Cumming of Va., to be Surgeon General of the Public Health Service. (Reappointment.)

*February 2*—Homer A. A. Smith of Maryland, to be a member of the United States Employees' Compensation Commission for the unexpired term of six years from March 15, 1923.

*February 4*—Norman A. Dodge of Texas, to be United States Attorney, northern district of Texas. (Mr. Dodge is now serving under appointment by the court.)

*February 4*—Theodore W. Hukriede of Mo., to be United States Marshal, eastern district of Mo. (Reappointment.)

*February 6*—William J. Tilson of Ga., to be a member of the United States Customs Court.

### Proclamations

*February 3*—A proclamation setting aside for lighthouse purposes a site on the Island of Kahoolawe, Hawaii.

*February 13*—A proclamation increasing duty on rag rugs of the "hit and miss" type.

### Executive Orders

*January 23*—An executive order withdrawing certain public lands in Arizona pending resurvey.

*February 1*—An executive order making modifications in rules governing the granting and issuing of passports in the United States.

*February 2*—An executive order changing regulations re-

quiring privately owned bicycles in the Canal Zone to be licensed and carry license tags.

*February 3*—An executive order correcting description of lands at Waimanalo, Hawaii, withdrawn March 28, 1917.

*February 10*—An executive order excluding from the retirement act garment makers (bundle hands) employed in the naval garment factory, Brooklyn.

*February 11*—An executive order reserving a 40-acre tract in Idaho for use as an air mail beacon site on Salt Lake-Pasco Airways.

*February 14*—An executive order withdrawing, in aid of legislation, lands in Wyoming.

*February 17*—An executive order withdrawing from entry, pending resurvey, lands in New Mexico.

### Communications to Congress

*January 23*—A communication transmitting supplemental estimate for the War Department of \$95,000 for a military park at Stone River, Tenn.

*January 24*—A communication transmitting a proposed amendment to the estimates contained in the Budget for 1929 for the Advisory Committee on Aeronautics.

*January 25*—A communication transmitting supplemental estimate for the Department of State of \$65,000 for the water boundary between the United States and Mexico.

*January 30*—A communication transmitting a supplemental estimate of \$2,680,000 to be spent by the supervising architect of the Treasury on public buildings work.

*January 30*—A communication transmitting supplemental estimate of \$242,393 for the Budget for 1928.

*January 30*—A communication transmitting supplemental estimate of \$400,000 for the Department of Agriculture, \$100,000 of which is to enable the Department to check new outbreaks of the pink boll worm in Texas cotton fields.

*January 30*—A communication transmitting a supplemental estimate of \$50,000 for the Budget for 1929.

*January 31*—A communication transmitting supplemental estimate of \$32,000 for the War Department for the Chalmette National Cemetery, La.

*February 6*—A communication transmitting supplemental estimate of \$7,000 for the Department of Agriculture for leased wire service for the Bureau of Agricultural Economics.

*February 13*—A communication transmitting supplemental estimates of \$34,250, for the Library of Congress, for 1929.

*February 14*—A communication transmitting supplemental estimates of \$502,816.88 for the Department of Agriculture.

## The Month in the United States Supreme Court

ON January 23, 1928, the Supreme Court rendered two opinions and a few "per curiam" decisions and immediately adjourned for a month's recess to reconvene on February 20. The Court is expected to render a number of important decisions at the end of the recess. These will be reviewed next month, together with subsequent decisions handed down during the period from February 20 to March 20.

## Uncle Sam's Book Shelf

### A Selected List of Publications of General Interest Issued by the Federal Government During the Month

#### Aeronautics

##### Civil Aeronautics in Great Britain

"Civil Aeronautics in the United Kingdom;" by Brower V. York. (Trade Information Bulletin 518.) Price, 10 cents. Covers Government policy, aids and regulation, early subsidies, permanent scheme of subsidy, total value of Government aids, etc.

#### Agriculture

##### Agriculture Census

"United States Census of Agriculture, 1925: Pt. I, The Northern States." (Bureau of the Census.) Price, \$1.75. Covers reports for Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, Kansas.

##### Barberry and Black Stem Rust

"The Common Barberry and Black Stem Rust;" by E. C. Stakman and others. (Farmers' Bulletin 1544.) Price, 5 cents. Covers barberry causes enormous losses, the common barberry an outlaw, how barberry spreads rust, etc.

##### Co-operative Sales Organizations

"Joint Use of a Sales Organization by Two Co-operative Associations;" by Kelsey B. Gardner. (Agriculture Circular 10.) Price, 10 cents. Covers co-operative marketing and the maintenance of an all-year salaried sales organization, joint-sales agreement between the California fruit growers' exchange and the California fruit exchange, reasons for originating the sales agreement between the associations.

##### Corn Borer Control

"Scouting, Quarantine and Control for the European Corn Borer, 1917-1926;" by L. H. Worthley and D. J. Caffrey. (Agriculture Technical Bulletin 53.) Price, 30 cents. Covers distribution and bionomics of the corn borer, scouting for the corn borer, quarantines on account of the European corn borer, etc.

##### Corn Breeding

"Corn Breeding;" by Frederick D. Richey. (Agriculture Bulletin 1489.) Price, 25 cents. Covers importance and scope of corn breeding, principles of corn breeding, practice of corn breeding, discussion and literature cited.

##### Cotton Production and Distribution

"Cotton Production and Distribution, Season of 1926-27." (Census Bulletin 162.) Price, 10 cents. Covers supply and distribution of cotton in the United States, consumption and stock of cotton, imports and exports of cotton, etc.

##### Purebred Dairy Sires

"Purebred Dairy-Sire Introduction;" by W. E. Wintermeyer. (Agriculture Circular 6.) Price, 10 cents. Covers county-wide scrub-bull-eradication campaign, preliminary information necessary, the survey, supervision, etc.

##### Sanitation for Swine

"The Swine Sanitation System As Developed by the Bureau of Animal Industry in McLean County, Illinois;" by H. B. Raffensperger and J. W. Connelly. (Agriculture Technical Bulletin 44.) Price, 5 cents. Covers historical summary, field investigations, resistance of ascarid eggs to chemicals, etc.

##### Winter Wheat Seeding

"Rate and Date of Seeding and Seed-Bed Preparation for

Winter Wheat at Arlington Experiment Farm;" by C. E. Leighty and J. W. Taylor. (Agriculture Technical Bulletin 38.) Price, 5 cents. Covers plan of the experiments, environmental conditions, experimental data, etc.

##### Wheat and Rye Smuts

"Smuts of Wheat and Rye and Their Control;" by W. H. Tisdale and V. F. Tapke. (Farmers' Bulletin 1540.) Price, 5 cents. Covers smuts of wheat, stinking smut or bunt, loose smut, flag smut, smuts of rye and stem smut.

#### Bird Life

##### Bird Life

"Returns From Banded Birds, 1923 to 1926;" by Frederick C. Lincoln. (Agriculture Technical Bulletin 32.) Price, 20 cents. Covers life-history studies, an international method of research, economic aspects, regional bird-banding associations, returns reported to the Biological Survey, etc.

#### Education

##### Land Grant Colleges

"Land-Grant Colleges, Year Ended June 30, 1926;" by Walter J. Greenleaf. (Education Bulletin 1927, No. 37.) Price, 15 cents. Covers general, institutions attended by white students, negro land-grant colleges, etc.

#### Army and Navy

##### National Guard Register, 1927

"Official National Guard Register for 1927." (Military Bureau, War Department.) Price, \$1.

#### Foreign Commerce

##### Colombia and Venezuela Budgets

"Latin American Budgets: Pt. III, Columbia and Venezuela;" by James C. Corliss. (Trade Information Bulletin 524.) Price, 10 cents. Covers budget system, budgetary operations, actual results, 1923 to 1926, ordinary revenues, 1923 to 1926, extraordinary revenues and expenditures, 1923 to 1926, etc.

##### Markets for Windmills

"Foreign Markets for Windmills;" by William A. Dunlap. (Trade Information Bulletin 521.) Price, 10 cents. Covers markets in North America, South America, Europe, Asia, Oceania and Africa.

##### Motion Picture Markets

"Markets for Industrial and Educational Motion Pictures Abroad;" compiled by E. I. Way. (Trade Information Bulletin 520.) Price, 10 cents. Covers general summary, subjects preferred, financing distribution, stimulating attendance, etc.

##### Nicaragua—Economic Survey

"Nicaragua, a Commercial and Economic Survey;" by Harold Playter and Andrew J. McConico. (Trade Promotion Series 54.) Price, 30 cents. Covers trading centers, agriculture and livestock, other industries, transportation and communication, finance and banking, foreign trade, etc.

##### South America—West Coast Trade

"Trade of the Pacific Coast States with the West Coast of South America;" by Spencer B. Greene and Robert M. Lane. (Trade Information Bulletin 525.) Price, 10 cents. Covers the United States share of imports into west coast countries, arrangement of produce tables, present economic condition of Ecuador, etc.

#### Forestry

##### Swedish Forestry

"Forestry in Sweden;" by Emil Kekich. (Trade Promotion



Series 56.) Price, 10 cents. Covers regulation of wood supply, Sweden's forest wealth, utilization of Sweden's forests, agriculture and forestry, conservation boards, etc.

### Government

#### Comptroller General's Decisions

"Decisions of the Comptroller General of the United States, Vol. 6, July 1, 1926, to June 30, 1927." (General Accounting Office.) Price, \$2. Covers list of claimants, statutes at large, revised statutes, decisions of comptroller general, decisions of comptroller of the Treasury, etc.

#### Tariff on Phenol

"Phenol, Report of the United States Tariff Commission to the President of the United States." (Tariff Commission.) Price, 5 cents. Covers introduction, letter of transmittal, information obtained in commission's investigation, costs of production, summary and appendix.

#### Customs Court Reports

"Court of Customs Appeals Reports, Vol. 14, Cases Adjudged in the United States Court of Customs Appeals, April, 1926, to April, 1927." Price, \$1.35. Covers cases reported, cases cited, treasury decisions cited, laws construed, cases appealed to Supreme Court, certiorari denied by Supreme Court, etc.

### Mines and Minerals

#### Coal Mine Fires

"Fifty-Nine Coal-Mine Fires;" by G. S. Rice, J. W. Paul and M. W. von Bernewitz. (Mines Bulletin 229.) Price, 40 cents. Covers the fire hazard at coal mines, classification of mine fires by causes, location of fires as affecting hazard to life and property, methods of limiting ignition, etc.

#### Indiana Coals

"Analyses of Indiana Coals;" by W. N. Logan and others. (Mines Technical Paper 417.) Price, 10 cents. Covers the Indiana coal field, analyses of mine samples, description of samples, analyses of coals delivered and index.

#### Mine Gases

"Gases From Blasting in Tunnels and Metal-Mine Drifts;" by E. D. Gardner and others. (Mines Bulletin 287.) Price, 20 cents. Covers metal-mine explosives, gaseous products of explosion, sampling of gases, analyses of gases, effect of constituents of rocks on gases from blasting, etc.

#### Petroleum Refining

"Petroleum Refinery Statistics, 1926;" by G. R. Hopkins. (Mines Bulletin 289.) Price, 20 cents. Covers runs to stills, percentage yields, gasoline, automobile registrations and gasoline taxes, kerosene, gas oil and fuel oil, etc.

#### Potash Mining in Europe

"Potash Mining in Germany and France;" by Geo. S. Rice and John A. Davis. (Mines Bulletin 274.) Price, 25 cents. Covers general features of German and French potash mining,

mining methods, treatment of crude potash salts, cost of production, etc.

### Public Health

#### Catalogue of Publications

"Some Public Health Service Publications Suitable for General Distribution." (Public Health Reprint 1192.) Price, 5 cents.

#### Polluted Waters and Oxygen

"The Oxygen Demand of Polluted Waters;" by Emery J. Theriault. (Public Health Bulletin 173.) Price, 25 cents. Covers data pertaining to the significance, validity or fundamental theory of oxygen demand tests, mathematical expressions defining time and temperature relationships, bacterial counts and oxygen demand values, etc.

#### Rural Health Work

"Co-operative Rural Health Work of the Public Health Service in the Fiscal Year 1927;" by L. L. Lumsden. (Public Health Reprint 1184.) Price, 10 cents. Covers plan of work, appropriation, expenditures, detailed data, etc.

#### Universities and Public Health

"The University in Relation to the Public Health;" by J. W. Kerr. (Public Health Reprint 1190.) Price, 5 cents. Covers conservation of the health of students, education regarding individual and community health, the training of health workers, etc.

### Steel

#### Structural Steel Specifications—Cars

"Standard Specifications for Structural Steel for Cars." (Industrial Standards 211.) Price, 5 cents. Covers manufacture, chemical properties and tests, physical properties and tests, inspection and rejection, etc.

#### Structural Steel Specifications—Locomotives

"Standard Specifications for Structural Steel for Locomotives." (Industrial Standards 210.) Price, 5 cents. Covers manufacture, chemical properties and tests, physical properties and tests, inspection and rejection, etc.

### Trade Practices

#### Trade Association Activities

"Trade Association Activities;" prepared by S. Pauli and others. (Domestic Commerce Series 20.) Price, 75 cents. Covers how trade associations are organized, statistics, industrial and commercial research, simplified practice, industrial standardization, etc.

#### Packing Razor Blades

"Packaging of Razor Blades." (Simplified Practice Recommendation 69.) Price, 5 cents. Covers list of accepters, simplified practice recommendation, history of the project, general conference, the division of simplified practice, etc.

Frank H. Simonds

Continued from page 86

In the same fashion the American proposals for a League of Nations which the President brought to Paris seemed to have suffered a change when he brought them back in their Versailles version. Precisely in the same way, parity agreed upon at the Washington conference and parity as it reappeared at the Coolidge conference at Geneva were not easily identified as the same thing.

As far as peace and war are concerned Europe has in the past 19 years gradually developed its own machinery. It has combined the new League with the old system of alliances. Continental Europe has steadily striven to make the League absolutely effective by getting all the member nations to agree to pool their forces in a common guarantee to crush any power seeking to modify the existing status by force.

On the other hand, Britain has agreed to use its force to

make war upon either France or Germany if either violates the peace pacts of Locarno. France has given Poland a similar guarantee for the Vistula and Czechoslovakia for its territorial integrity. Other similar agreements have been made and are still being made. And at the bottom of all these agreements and alliances is the idea of war, always defensive, always following an aggression duly established, but always war.

We gave Europe the fourteen points and they translated them into the treaty of Versailles. We contributed the League of Nations and Europe recast it into the present form. We have now proposed the outlawing of war and, it is safe to assume that when a new agreement is reached, the situation will be just about the same as in the previous instances.—*Extracts, see 4, p. 106.*

## Action Taken by Congress

Continued from page 98

Wednesday, February 15, 1928

## Senate:

Agreed to S. Res. 142, for an investigation by the Senate Committee on Agriculture and Forestry of cotton exchanges, bankers, merchants, millmen and the Department of Agriculture to determine whether there has been manipulation of the cotton market.

Agreed to conference report on H. R. 7009, authorizing construction at military posts.

Resumed debate on S. Res. 83 for an investigation of public utilities corporations.

Agreed, by a vote of 46 to 31, to the amendment to the resolution offered by Mr. George, Ga., D., providing that the proposed investigation be made by the Federal Trade Commission instead of by the Senate.

Agreed to S. Res. 83 as amended.

Adjourned.

## House:

Mr. Crampton, Mich., R., spoke on S. 700, authorizing the Secretary of the Interior to enter into an agreement for irrigation, drainage and flood control of Pueblo Indian lands in New Mexico.

Mr. McClintic, Okla., D., spoke on the naval program.

Mr. Brand, Ga., D., spoke on the pioneers of the equal suffrage movement.

Resumed debate on H. R. 10635, the Treasury and Postoffice appropriation bill, and passed the bill.

Adjourned.

Thursday, February 16, 1928

## Senate:

Debated S. Res. 105, by Mr. Johnson, Cal., R., reported by Mr. Deneen, Ill., R., from the Committee to Audit and Control the Contingent Expenses of the Senate, providing for an investigation of the strike in the bituminous coal fields of Pennsylvania, Ohio and West Virginia.

Agreed to resolution.

Began consideration of H. R. 7201, the Allen Property bill.

Mr. King spoke on proposed enlargement of the Navy.

Executive session.

Recessed.

## House:

Mr. Morrow, N. M., D., spoke on S. 4700, providing for irrigation and flood control of Pueblo Indian lands in New Mexico.

Began consideration of and debated H. R. 9285, the general claims bill.

Adjourned.

Friday, February 17, 1928

## Senate:

Passed several bridge bills.

Discussed decisions of the Interstate Commerce Commission on coal carrying rates.

Resumed consideration of H. R. 7201, the Allen Property bill, and agreed to five-minute debate on the bill after 2 o'clock on Monday, February 20.

Executive session.

Recessed.

## House:

Resumed consideration of and passed H. R. 9285, the general claims bill.

Passed H. R. 367, authorizing the settlement of the indebtedness to the United States of the Kingdom of the Serbs, Croats and Slovenes.

Began consideration of H. R. 11133, the District of Columbia appropriation bill.

Mr. Lindsay, N. Y., D., spoke on the use of submarines in warfare.

Mr. Crampton, Mich., R., spoke on the uses of industrial alcohol.

Mr. Howard, Okla., D., spoke on the oil industry of America.

Adjourned to meet Monday, February 20.

## Provisions of Borah Resolution to Outlaw War

Continued from page 78

*Whereas* an international arrangement of such judicial character would not shackle the independence or impair the sovereignty of any nation: Now, therefore, be it

*Resolved*, That it is the view of the Senate of the United States that war between nations should be outlawed as an institution or means for the settlement of international controversies by making it a public crime under the law of nations and that every nation should be encouraged by solemn agreement on treaty to bind itself to indict and punish its own international war breeders or instigators and war profiteers under powers similar to those conferred upon our Congress under Article 1, section 8, of our Federal Constitution, which clothes the Congress with the power "to define and punish offenses against the law of nations"; and be it

*Resolved further*, That a code of international law of peace based upon the outlawing of war and on the principle of equality and justice between all nations, amplified and ex-

panded and adapted and brought down to date should be created and adopted.

*Second*. That, with war outlawed, a judicial substitute for war should be created (or, if existing in part, adapted and adjusted) in the form or nature of an international court, modeled on our Federal Supreme Court in its jurisdiction over controversies between our sovereign States; such court shall possess affirmative jurisdiction to hear and decide all purely international controversies, as defined by the code or arising under treaties, and its judgments shall not be enforced by war under any name or in any form whatever, but shall have the same power for their enforcement as our Federal Supreme Court, namely, the respect of all enlightened nations for judgments resting upon open and fair investigations and impartial decisions, the agreement of the nations to abide and be bound by such judgments, and the compelling power of enlightened public opinion.

## Sources from Which Material in This Number is Taken

Articles for which no source is given have been specially prepared for this number of *The Congressional Digest*

- 1—"The Outlawry of War," by Charles Clayton Morrison; Willet, Oak & Colby, Chicago, 1927.
- 2—From Speech Delivered at Meeting of Women's Clubs for the Cause and Cure of War, Washington, D. C., January 15, 1928.
- 3—Article in "The Independent," August 16, 1924.
- 4—Syndicated Article in "Sunday Star," January 29, 1928.
- 5—An Editorial in "The World," New York City, March 18, 1923.
- 6—A Review of Morrison's "The Outlawry of War," by Frederick J. Libby, Executive Secretary, National Council for Prevention of War, Washington, D. C., "News Bulletin," September 1, 1927.
- 7—Article in "The Independent," September 13, 1924. Speech Before the Philadelphia Forum, December 17, 1924.
- 8—Foreign Policy Ass'n Information Service, June 8, 1927.
- 9—Dispatch to "New York Times" by Russel Owen at Havana, February 17, 1928.
- 10—Article "Atlantic Monthly," August, 1923.
- 11—Article in "The Forum," January, 1924.
- 12—Editorial, "Advocate of Peace," February, 1928.
- 13—Pamphlet, "The International Joint Commission," Published by the Government Printing Office, 1924.
- 14—Article in "The New Republic," October 3, 1923.
- 15—Washington Dispatch to "Topeka Daily Capital," November 22, 1927.

# The Congressional Digest

*The Pro and Con Monthly*

## Back Numbers of Current Importance Still Available

*Numbers starred are exhausted except in bound volumes.*

*The subjects listed represent the pro and con feature of the number.*

### Vol. II

*October, 1922-September, 1923*

Muscle Shoals Development\*  
Operation of U. S. Budget System\*  
Inter-Allied Debt Controversy\*  
Rural Credits Legislation  
Child Labor Amendment  
Review of 67th Congress  
Federal Civil Service  
World Court Proposal  
U. S. Supreme Court  
America and Her Immigrants  
Federal Taxation

### Vol. III

*October, 1923-September, 1924*

Congress and the Railroads  
How a New Congress is Organized  
Problems Before 68th Congress  
Reorganization of U. S. Foreign Service  
The Sterling-Reed Education Bill  
The Woman's "Equal Rights" Amendment  
Immediate Philippine Independence  
The McNary-Haugen Agricultural Bill  
Peace Proposals Before 68th Congress  
Political Parties and Issues of 1924  
Developing Our Inland Waterways

### Vol. IV

*October, 1924-December, 1925*

America's Stand Against Liquor  
The Dawes Plan for German Reparation Payments  
Repeal of Federal Income Tax Publicity Law  
National Defense and the Limiting of Naval Armament

Postal Pay and Rate Issue  
Review of 68th Congress  
Federal Department of Aeronautics  
Congress and Cooperative Marketing  
Congress and the Coal Problem  
Federal Estate Tax Repeal

### Vol. V

*January-December, 1926*

American Merchant Marine  
The United States and the World Court  
The McFadden Banking Bill  
Should United States Adopt Metric System  
Federal Department of Education\*  
Congress and Prohibition Enforcement  
Changing Sessions of Congress and Inauguration Day  
The Direct Primary System  
Cloture in the U. S. Senate  
Settlement of U. S. and German War Claims

### Vol. VI

*January-December, 1927*

St. Lawrence vs. New York Shipway  
The Boulder Dam Project  
The Problem of Railroad Consolidations  
U. S.-Nicaragua Controversy  
The Problem in China  
Uniform Marriage and Divorce Law.  
Question of Capital Punishment  
The Problems of Copyright Reform  
Issues Involved in Seating a Senator.  
The Capital of the United States.

### Vol. VII

*January-December, 1928*

The New Congress and the Tax Question.  
Congress and Mississippi Flood Control.

*Address your subscriptions to*

## The Congressional Digest

Munsey Building

Washington, D. C.

*Published monthly, except for July and August*

\$5.00 a Year  
Bound, \$7.50

50 Cents a Copy  
Back Numbers 75c



---

---

NEXT MONTH

*The Third Term Controversy*

A Review of Legislative Efforts  
to Change Term of President

Statements of American Presidents

A Third Election vs. a Third Term

Agitation for a Six-Year Term

The Arguments Pro and Con

---

Send Orders to

**The Congressional Digest**

Munsey Building

Washington, D. C.

---

---